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THE

IRISH LAND.

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BY

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PART I.—A VISIT IN THE SPRING.

PART II.—A VISIT IN THE AUTUMN.

LONDON:
TRÜBNER AND CO., 60, PATERNOSTER ROW.
DUBLIN: HODGES, FOSTER, AND CO.
1860.

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PREFACE.

THE first part of this little volume, dated 15th June, was printed at the time in nearly its present shape, and had some private circulation; but I did not feel sufficient confidence to take upon myself to publish it. I rather sought to air, as it were, the facts and ideas which I had brought back from Ireland, and to obtain some good opinions as to their correctness or otherwise. I have since received very encouraging testimony of extremely competent persons as to the general correctness of my view of the facts, and although so much has not been said of the remedy towards which I have pointed, it has been deemed by some not unworthy of consideration. I have been encouraged then, farther to prosecute the inquiry. Meantime the land question has been fully discussed in the press, and some of the statements and suggestions which three months ago were unfamiliar to most Englishmen, have been so prominently put forward that they are no longer strange and unexpected.

I now then venture to submit to the public the

result of my inquiries. Perhaps I should have recast the whole into one—but, after all, the subject is a difficult one, for which people in England and Scotland have not been long prepared. Perhaps most of those who may be induced to read these pages will not be unwilling to make, with me, two steps of so wide a space as that which separates Britain from Ireland. I have, therefore, reprinted the result of my Spring visit with some corrections, and a few notes, and have added in a separate part the farther results of a visit in the Autumn.

G. CAMPBELL.

October 15th, 1869.

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THE IRISH LAND.

PART I.

A VISIT IN THE SPRING.

None have been so loud as the advocates of the Established Church in asserting that the real subject of Irish discontent is not the Church, but the Land. None so much as Irish Churchmen testify to the exceeding amount of that discontent; the whole population in great part of the country are, as they express it, "Fenians at heart." The particular Fenian conspiracy may be little dangerous; but it is undoubtedly the fact that the intercommunication between Ireland and America has become so great that the country is permeated by American ideas, which, acting on local discontent, fill the minds of the people with feelings hostile to England. Those American connexions are far more lasting than any Fenian conspiracy, and must produce their effect so long as there is discontent to work upon. In other countries the conservative powers are the Church and the Land.

In Ireland we have had both the Church, and the people who till the land against us. It may be conceded that, as a popular question—Political Economists, and the ultimate burden, notwithstanding—the worst sting of the Alien Church was removed when the payment of the clergy was transferred from the occupier to the landlord. The present measure of religious equality will do the rest so far as that subject is concerned, and will remove all ground for hostility on the part of the Roman Catholic Church. Still, that Church, as a voluntary Church, must depend on the people; if the people are against us, the Catholic Church cannot be with us. The Land question, which is now the popular question, therefore still involves the whole future of Ireland. If the people can be satisfied on that question we shall then gain priests and people together. Till they are satisfied, there can be no doubt that in estimating the strength of England, Ireland is not a plus but a minus quantity; that is, in any struggle, instead of deriving an accession of strength from Ireland, part of our own proper strength must be put aside to keep Ireland.

The door of emigration is now so widely opened that it might be possible, by repressive measures, to drive this discontented people from the soil, and, by a new colonization and reconstruction of Ireland, to find there that permanent addition to British soil which we can never have in distant colonies. But not to touch

on the objections to such a plan, it is enough to say that we have a strong Government pledged to the other policy of conciliation; which will at least *try* to satisfy the Irish before resorting to the alternative of extirpating them. That Government, admitting the Church and the Land to be the grievances of Ireland, has dealt radically with the Church, and has promised to deal with the Land. A substantial concession on this subject is naturally and reasonably expected; and if that be not granted, Ireland cannot be settled in this generation.

The Irish Land question may, then, be considered the question of the day. I am not an Irishman, and have no personal connexion with Ireland; but I have, I may say, spent my life in intimate relations with the land in different countries, and in various stages of society; and believing that a stranger, possessed of some special knowledge, and free from local entanglements, may sometimes obtain a better bird's-eye view than a native, I have applied myself to try to discover the merits of the question. I have hopes that I may eventually work out in some detail the subject of land-tenure, comparing Ireland with other countries; meantime, on returning from a visit to Ireland, I commit to paper the impressions which the subject has so far made on my mind. I shall only add a word in explanation of my position. I was born and bred amid the agriculture of Scotland; and my present personal

interests, experience, and *home* knowledge, are principally derived from that source. I am therefore thoroughly alive to the advantages of the commercial system of farming as carried to its legitimate issue in Scotland. On the other hand, in India it has been my profession to deal with great land questions in many different parts of that country, and in greater variety than falls to the lot of most men; and I have been enabled to watch the rise and growth of property in land from its earliest development to its most advanced stages, and from its form under arbitrary native Governments to that which it acquires after a century of British Law.

I must begin by expressing my belief that no petty measure will in any degree satisfy the Irish. If they are offered anything short of large and substantial concessions, the expectations which have been excited will have led to more harm than good. I do not think that any mere improvement of the law of contract can possibly operate as a great concession—that has already been tried without success. And being one of those people who never can be brought to believe that two and two make five, I set out with much distrust of all schemes for giving to one without taking from another—for satisfying the tenants without trenching on the rights of property, in the sense in which the term is used by landlords—without something of what they call confiscation. There are, in

fact, two claimants to the right of occupying the land. You cannot satisfy both: you can only compromise the matter between them. It may be that you may take from one and give to another in such a way as to benefit him to whom is given without really injuring him from whom is taken; just as a man who is oppressed by two coats may feel all the lighter and easier when he has been compelled to give one to him who has none; but from his point of view there is confiscation of property nevertheless. In this view it would only be possible to argue that a moderate measure of confiscation would eventually be beneficial to all parties.

In truth, however, this is not the only, nor, as I think, the real view of the case. Those who argue that there is no room for compromise, because the landlords having already everything—that is, absolute and unconditional property in the soil—have no occasion for compromise, and the tenants having no rights, have no basis for compromise, take the very narrowest and the most English-lawyer view of the question. It is hardly possible to approach the subject without first realizing this—viz., that in Ireland a landlord is not a landlord, and a tenant is not a tenant—in the English sense. In fact, this may be said of most countries. The whole difficulty arises from our applying English ideas and English laws to a country where they are opposed to facts, and to those "ἀγραπτοι νομοι,"

which are written in the hearts, and find expression in the customs of the people.

In Ireland there are two sets of laws—the English laws, and the laws or customs of the country, which, enforced in a different way, are as active and effective. In the clashing of these two systems lies the whole difficulty. In the assumption that the theoretical English law is the only law, and the attempt to put out of sight the customary law of the country, is the fallacy of the argument on behalf of the landlords. In theory the landlords are absolute owners; but in fact are they so? Most assuredly not. The extreme theory of property is everywhere overborne and modified by the custom. In the North that custom has assumed a definite and recognised form, against which it is vain for landlords to contend. There is peace, but peace at the expense of the extreme theory of landlord property. In the South the custom is not so well settled; there is more social and religious discord, the agitated waters have not admitted of the perfect crystallization of that tenant-right element which still exists; and the popular custom in favour of the tenant is supplemented by a custom of "dropping landlords." By an infinitely more disagreeable process, a similar result is arrived at in the South* as in

* When I speak of "the South" in the first part of this volume I more especially refer to Tipperary and other counties similarly situated. Perhaps it would have been more correct to have said

the North—viz., that the theoretical landlord cannot do what he likes with what he considers to be his land. Lord Derby—than whom no man has had better opportunities of understanding the subject—distinctly tells us that he cannot. The landlord, by the consent of both sides, is entitled to the rent, and he gets the rent without difficulty. But if he tries to take possession of the land as his own, or to give it to whom he chooses, he is at once met by a law stronger than the law; he cannot do it. I say then, again, that there can be no greater fallacy than that the landlord already has everything, and has no occasion to compromise; he has the rent, but he has not the land. The people have, in one sense, the land, but they have not the support of the law administered by the ordinary tribunals. Can we not, then, effect some compromise between these two parties, by which the law of the land and the custom having the force of law may be brought into harmony and made to work together? That is the problem to be solved.

Talk of the sacredness of landlord property as you will, it is quite impossible for any one to hear the common language of, and read the literature regarding, Ireland, without feeling that, law or no law, at this moment the landlords are not the only owners of

"the centre of Ireland." I shall subsequently explain how far, on visiting the South-Western counties, I found some variety in the condition of things.

the soil. All classes talk freely, as a matter of course, of a man as "owning a farm," "selling his farm," "having bought a farm," "having inherited a farm." It is well known that the tenants habitually dispose of their farms by formal will,* charge them with fortunes for daughters, and in every respect deal with them as property. Take the book of Mr. Trench, who, however friendly he may be to the people, is certainly not inclined to assert their rights of property against those of the landlords: we find him constantly, and as it were unconsciously, applying the language of property to the tenure of farms; it is, over and over

* Here is a copy of the Will of the tenant of a small Hill Farm in a Southern county—the first case I happened to inquire about.

Ceangalen, June 28th, 1869.

The last will and dying declaration of Jeremiah Sheehan, being in sound and perfect memory, thanks be to the Almighty God for His mercies to us all, therefore I Bequeath my house and land to my eldest daughter, Margaret Sheehan; also I Bequeath ten pounds sterling to my dear wife, Mary Sheehan; also ten pounds more to each of four young daughters, namely, Mary and Honora and Catharine and Nell, out of my holding at Caniguilen.

Also my daughter Margaret, who is to be the proprietor of the place, is to pay the debts due of the place.

his
Jeremiah X Sheehan
mark

Witness present.

Darby Shee

John Harrington

her
Margaret X Sheehan
mark

Dated this 28th day of June 1869.

again—a man owned a farm—did this with his farm—did that with his farm. I took as a test case the story of one of his heroines. We are told that her father owned a good farm*—that she was heiress to the farm, and courted as such. We have quite a little history of the property and the troubles which it brought on its proprietress. "Well," I said, on reading the story, "this must be property in the English sense; he can't mean here merely the tenant claim to occupancy, which is so strenuously denied." Yet when we get to the end of the story, we come to an allusion to the adjustment of the rent, and it turns out that the owner of the property of the tale is nothing but an ordinary Irish tenant, after all! Surely it is a mere superstition to talk as if it would be a sacrilege to acknowledge some sort of claim to a property which is already so fixed in the hearts and language of the people of Ireland, low and high.

Putting aside extravagant Fenian suggestions, the claim of the people is not to oust the landlords and take their place, but simply to hold according to the custom at a fair rent. Although it is true that some modern landlords have done much in the way of improvement, there can be no question that, as a rule, in Ireland it is the tenant, and not the landlord, who

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Mr. Trench begins thus—"I made inquiries about the girl, and found that her father was owner of some eight or nine acres of land on which he had a comfortable house."

has reclaimed the land, built the homestead, put up the fences, and done most of what has been done. He has done this without special contract, in reliance on the custom. The exercise of the extreme legal right of the landlord to turn him out, without full compensation, is a confiscation in the reasonable sense of the word. Yet every attempt to interfere with this right of the landlord to ignore improvements already made, has been met by the cry of confiscation on their side.

It comes then to this, that there can be no settlement of the question without something which would be called confiscation on one side or other; unless, indeed, resort is had to a third plan, to which I for one should strongly object. It is useless to nibble at so serious a question—it must be grappled with by a radical and complete measure. We must either grant something substantial, or firmly refuse it. If it is to be refused, assuredly nothing could be a worse policy than to keep the people in play with the hope of redress by bringing forward a succession of measures which would amount to scarcely more than infinitesimal concessions. If nothing material is to be conceded, the sooner that is made clear the better for all parties.

It seems to me that we must do one of three things:

1. Firmly refuse all substantial concessions, and tell the discontented Irish that they may emigrate.

2. Concede something of the extreme theoretical rights of the landlords by way of compromise.

3. Satisfy, if it be possible, both Irish parties by the expenditure of British money.

It is to this last plan that I especially object; and it is because the schemes put forward by the most distinguished of advanced Liberals, Mr. Bright and Mr. Mill, are in the main of this character, that I think something else must be devised.

We have two sides to the question. One side says that the landlords have, since the famine, entered on a great course of improvement and consolidation of farms; that the discontented and the impoverished are emigrating, and will emigrate; that farms will be further consolidated; that when the people who cumber the soil have emigrated, the priests who live upon them must emigrate too; the people who remain may possibly become good Protestants—certainly will be divided into good farmers and good labourers, under good model landlords; and, in short, Ireland is all in the way to be transformed into another Scotland, if you will only give her a little time and not interfere. The other view is, that the Irish people and Irish institutions are not to be extirpated or transformed so quickly; that the effect of the famine in bringing about a great change has now nearly ceased; that it would require two or three more famines and two or three generations, and very strong repressive

measures, to effect a complete change to a British system; that meantime you will have a discontented people, Fenian and such like movements, American sympathies, and many risks—that at best you can only hope to create an Anglo-Ireland for the benefit of our descendants at the expense of much trouble, money, and risk to ourselves, to say nothing of the injustice of driving the Irish people from their own soil.

Be the rights of these opposing arguments what they may, the practical solution is, as I have said before, that we have a strong ministry pledged to try the effect of measures of conciliation, and to bring in a substantial Land Bill.

One point more I must here notice. One is commonly met in this way. It is said, "No doubt it would be harsh and contrary to the feeling of the country to turn a tenant out without reason—to refuse him compensation—to insist on extreme landlord rights; but no good or tolerable landlord does these things." I freely concede that this is the fact; that the great majority of landlords feel themselves bound by the custom of the country, and do not act contrary to it. Good landlords who do their duty by the land in the sense of landlord duty in England or Scotland are still in the minority; but most Irish landlords are good in the sense of landlord duty in Ireland, that is, they do not press for supposed rights, which are only rights in countries where landlords perform the correlative duties.

Still, laws are made to restrain the bad and the unreasonable—not the good and reasonable. It is the sense of entire insecurity which causes the Irish farmer's discontent; he may have a good landlord to-day and a bad landlord, in the Irish sense, to-morrow; all the more since the Encumbered Estates Court so often brings in men more solvent, but more inclined to insist on what the law gives them, than were the old landlords.

It is not denied that at one time and another a good many harsh and unjust evictions have taken place. They are now rare, but it may well be doubted whether, if the public attention were not so strongly drawn to the subject, they would not be much more common on the part, not only of bad and unconscientious landlords, but also on that of a class sometimes more dangerous,—the conscientious improving men, guided by the laws of political economy, who want to improve the small tenants off the earth, consolidate farms, and create an Elysium according to English ideas. If we could effectually put down all lawlessness, we should, as the law now stands, put it into the power of every individual landlord wholly to set at nought the customs of the country. As it is, we have but rarely and exceptionally a landlord who unjustly exercises his extreme rights, but that exceptional act creates a feeling of insecurity among the whole class of tenants. On the other hand, it is, taking all Ireland, but rarely and exceptionally that a tenant shoots his landlord, but

when he does so, he does it with absolute impunity, and there follows a feeling of insecurity among all landlords. The people are palpably opposed to the law. It is a terrible state of things when justice is quite powerless; when you may take a list of murders committed in a county during the last two or three generations, and find that they are *never* detected. There never can be an end to Fenian and similar movements so long as those who form the main body and main strength of the people of Ireland, the agricultural community, sympathise with them—tacitly it may be, at present, but actively it might be, if a favourable opportunity arose. For the sake, then, of the Irish landlords, above all others, some compromise leading to an amicable settlement seems above measure desirable. It may not be possible to satisfy Fenian agitators, but it may be possible to satisfy, and satisfying to detach to the side of order, so large a body of the farmers that we could with safety and justice apply strong repressive measures to those who are still unsatisfied, and secure the peace of the country. On the other hand, if the landlords refuse all concession, are we bound to maintain with English and Scotch money an army, under the name of police, to enforce their legal rights so far as they can be enforced? Must there still be various concessions to the Irish at our expense, in order in some degree to make up for the injury which they conceive that they sustain at the

hands of the landlords? In every view I believe that the landlords must yield something of the letter of their rights. If by acknowledging the fair claims of the people they might obtain the secure enjoyment of their own share of the property, it would seem madness in them to refuse. Their political power is already gone; they cannot preserve game, they cannot enjoy their estates as do landlords in other countries. Any arrangement that preserves their incomes and the value of their estates and gives them peace must be beneficial to them. A reasonable surrender of some of the extreme legal rights of property would only affect them as matter of "sentiment." They would not in reality be placed in a worse position than that which they now hold, but very much the contrary.

In the belief, then, that some compromise is inevitable I apply myself to the question what the compromise should be.

I shall divide the steps by which I proceed.

THE ORIGIN OF TENANT RIGHT.

I have said that the claim of the Irish is not to oust the landlords, but to hold under them at a fair rent. The people would rather say "admitting your title to that which you have enjoyed, viz., the rent; we claim that which we have enjoyed, viz., the occu-

pation of the land, paying the rent." It seems absurd to English ears that a man who has come in under a definite contract of a mercantile character, as a tenant in the English sense, should claim any right to hold beyond the terms of his contract. But in these things we must particularly bear in mind what Mr. Maine has shown in his "Ancient Law," that in certain stages of society things depend rather on "status" than on contract; that contract is a later system, which is fully carried out only in very advanced societies. Especially as regards the tenure of land, it may be said that in very few countries has contract wholly prevailed over status. Indeed, Great Britain is almost the only country in the world in which land-contract has been carried to the length of our threefold division of classes into superior capitalist owning the land and supplying the fixed machinery necessary for its cultivation; inferior capitalist cultivating under a definite contract; and labourer working for hire. The system is different in Ireland, but so far from Ireland being in this respect a strange and abnormal country, the fact is, that as the world now stands, it is we who are abnormal, and the Irish system is that which is more general; we may, therefore, well judge it tolerantly if not respectfully.

Even in a legal point of view it was the British Parliament which, so lately as 1860, undertook to abolish all status-holding in favour of the absolute

right of the landlord by 23 & 24 Vic., cap. 154, sec. 3, which enacts that:—

"The relation of Landlord and Tenant shall be deemed to be founded on the express or implied Contract of the Parties, and not upon Tenure or Service;" a provision which the Lords' Committee of 1868, in their report, quoting the above words, expressly state to have "*entirely changed the state of the Law as to the relation of Landlord and Tenant.*"

In the first instance land was, no doubt, the property of him who first cultivated it, according to the doctrine of that early lawgiver, Menu—and in countries which have undergone no conquests or revolutions, this simple allodial tenure may for a time subsist. But there are few old countries which have not been subject to successive waves of conquest; and it invariably results that, in the absence of modern forms of taxation, the surplus produce or rent is the fund appropriated to the purposes of the dominant power, either directly by the State or the Chieftain, or in assignment to the dominant tribes who supply the military service of the State. The conquerors are seldom so numerous as wholly to oust the natives, and occupy their lands. When they are in large numbers they may occupy a good deal of land, and become Yeoman-freeholders. When they are less numerous, they are content with the Demesne lands required for the immediate use of the Lords, and the main portion remains with the

natives, who pay the rent or tribute imposed on their lands. In most Aryan countries the people manage their own affairs, under what is known as the village system, rendering to the State or to the Lords the accustomed dues, through their heads or representatives. The transaction being between ruler and ruled, rather than between parties contracting in the mercantile sense, there is not an actual putting up of the land to the highest bidder in each case. The payments of the inferior people are made in the form of customary rents—that is, they are regulated by the custom of the locality, as from time to time established, and are paid in the various forms of a proportion of the produce in kind, a regulated amount of labour given to the Lord's land, or money payments classified according to soils or crops. In such a state of things the Tenant makes his own arrangements for cultivation, and in his small way invests his own labour and capital in fixtures on the land. He does so in the security that his holding being one of status, he is not likely to be disturbed in his occupancy. In fact, before countries are quite fully occupied, and especially when the great political convulsions which accompany conquests have reduced the population and cultivation, it almost always happens that the competition is not of tenants for land, but of landlords for tenants. Under the system of customary rents, the object is not so much to obtain the highest rent from each tenant as to obtain the

greatest number of rent-paying tenants. In the state of feud and lawlessness which is apt to prevail, the strength as well as the riches of every baron, depend greatly on the number and contentment of his tenants. A dissatisfied tenant would be received with open arms by a rival chief. In short, in this state of matters the tendency of things is in favour of the tenant, and customary rents could hardly be raised to the highest rack pitch; otherwise, the inequalities resulting from the application of any set of rates to land infinitely varying would lead many tenants to go elsewhere. This state of things gave rise to the sort of Trades Unions among landlords which produced the Serf system. It was considered unfair for one man to entice away another man's tenants. Laws were made to prevent tenants removing from one estate to another; the tenants became "adscripti glebæ;" and the landlords were enabled to exact customary rents, even higher than they could have obtained in an open market, where the tenants were free to seek the best landlords. The iniquitous English law of fixtures, making all that the tenant has put on the soil the property of the landlord and prohibiting the removal of the materials is, probably, a relic of the same system.

In progress of time the serfs have generally obtained freedom, but the status relation of landlord and tenant and customary rents continue for a much longer period.

The occupancy of the tenants continues, and they generally acquire by prescription some sort of right of occupancy. At first, the law or absence of law is all in favour of the landlord; he may do what he likes with the tenant; he may imprison and ill-treat him with impunity, and he may no doubt arbitrarily eject any obnoxious tenant. This latter power however, he seldom exercises against individuals, far less against the body of tenants; it would be altogether against his interest to do so. A right in the tenants adverse to the lord grows up very slowly—insensibly it may be said. The tenants themselves are scarcely aware of it—will sometimes hardly admit it. They are very jealous of anything which might seem to chain them to the soil, and to deprive them of the power of going over to a rival landlord, which has been their chief safeguard. While, however, no law protects the tenant, time and habit are altogether in his favour. As he never is dispossessed, and acts in the expectation that he will not be dispossessed against his will, it gradually becomes understood that he is not to be dispossessed, and a prescription in his favour arises. It has almost always happened that a right or claim of occupancy has thus arisen, has crystallized into shape, and has finally been recognised by law or custom.

In English history, these stages of land-tenure are clearly and unmistakeably traced. The villagers or villeins—that is, the native cultivators under the

village system, as distinguished from the dominant conquerors the freeholders—were at one time reduced pretty much to the condition of serfs: they were obliged to pay high customary rents, and were denied the freedom of transferring themselves at pleasure from one landlord to another. Subsequently they not only acquired freedom, but eventually were recognised as possessing fixity of tenure, and became the well-known copyholders. They had no titles—their rights probably had no strictly legal origin; but when records were made, they were found in possession as tenants, paying rent in virtue of their status according to the custom, and a copy of the record so made constituted their title.

The lords generally add to the customary rents exactions on various pretexts, aids, presents, gifts on the occasions of marriages or expeditions, and such like. And the customary rents are liable to occasional change as circumstances and values change, or the lords find opportunities to enable them to raise rates. But in England the copyholders in addition to fixity of tenure, eventually obtained certain in lieu of uncertain payments, in fact, a fixed rent as well as a fixed tenure. We do not hear that the landlords raised the cry of confiscation;* fixity of tenure in fact

* Perhaps I am rash in making this statement without more full inquiry, but I think it is to be gathered that there was not complaint of the grant of rights to the villeins, but rather that in England

was conceded on very favourable terms, and the present state of things was reached not by asserting a right to evict the status-tenants, but by their gradual absorption with the increase of wealth, manufactures, and the commercial system, or their conversion in many cases into something little inferior to freeholders.

In India, coming in as impartial rulers to administer equitably and decide between the claims of superior and inferior holders, we have conceded fixity of tenure to large classes of the Ryots.

In European countries the same thing has taken place to a large extent. In Prussia we know that the landlords and tenants were found to be in fact co-possessors of the soil, and Stein's great settlement, made in the times when it was necessary to unite the nation against the foreigner, fully recognising the rights of the tenants, divided the land in proprietary right between them and the landlords.

In Italy, we are told that the Metayers are by

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crown, nobles, and people joined in deprecating the diminution of small tenancies (under the influence of economic laws) as an evil to be striven against. The "covetous grazier" who bought them up and turned the tillage lands into pasture, seems to have been regarded as a public enemy who absorbed the land instead of administering it "*so that the accustomed number of families supported by it should not be diminished.*" This last was the policy of those days, and special legislation seems to have been directed against, not in favour of the large farmers and graziers.

custom irremovable so long as they duly render the prescribed share of the produce.

The latest case of tenant right, and the most curious, is in Russia. It was popularly supposed among us, that the people, the serfs, were mere slaves attached to the soil, and that it was a great boon to them when the present emperor set them free, to go where they liked. It soon turned out, however, that the serfs did not view the matter wholly in that light. They considered that the same bond which had so long attached them to the soil, also attached the soil to them. Their expression was "We are your slaves, but the land is ours." And it was found just and necessary in great degree to concede this claim. The claim to a fixity of tenure amounting to a co-proprietorship in the land was admitted, and was satisfied by dividing the land between them and the landlords, as had been done in Prussia.

It comes then to this, that in countries where the people at large are still in possession of the soil, tilling it as farmers on their own account, and themselves supplying the necessary buildings and fixtures, some sort of tenant-right, or fixity of tenure, has been almost always admitted. Our English freehold tenure is in such countries rarely prevalent; there is not one right, not one estate, as the lawyers would say, in the land, but two estates; one man is entitled to the rent, another to the right of occupation and tillage, paying the rent.

Where contract has partly supervened upon status, and tenants really or nominally hold under contract, the great test is this—who supplies the fixed machinery of cultivation, the capital permanently attached to the soil? who goes to the expense of reclaiming waste, building houses, putting up fences, &c.? Where, as in England and Scotland, the landlord does all these things, the tenant coming in under a contract has no claim to a permanent interest in the soil; but where the tenant does all, or most of these things, his capital and his property being permanently conjoined to the property of the landlord, the feeling of the people is that they have a claim to remain on the land so long as they pay a fair rent.

THE HISTORY OF THE IRISH LAND QUESTION.

When we go back to old accounts, the similarity of Irish tenures and Irish history, to Indian tenures and history is very remarkable. The surrenders of the Irish tenures of the rebel chiefs and the re-grants upon English titles which took place in Ireland, are exactly analogous to what has since taken place in Oude. A little later we have in Sir John Davies' paper, an account of the only regular and thorough settlement of Ireland which has been made, under that in-

sufficiently appreciated monarch, James I.—for it seems pretty clear that the Cromwellian settlement was only a settlement of the sword, that the Colonization of the North is due much more to James than to Cromwell, and that in the South, the Cromwellian settlement unsettled all that James had settled, and has given no peace to Ireland.

The colonization of certain parts of the country apart, it appears from Sir John Davies' account, that there was carried out under James I. exactly what in India we should call a "regular settlement" of the country. If the names were changed the account might be taken almost word for word as the report of an administrator of an Indian province. To the credit of the Englishmen of those days, it may be said that there seems to have been then almost as impartial and considerate a spirit towards the natives as we could now exhibit in India. There was not that degree of religious bitterness which afterwards sprung up. Even the colonization of certain of the most irreclaimably rebel districts was not carried out by sheer and uncompromising hanging and confiscation. Great pains seem to have been taken to find land for the dispossessed Irish, and much sympathy for them and care of their interests crop out in the reports.

Davies found exactly the same land question which in India so much puzzled Lord Cornwallis and others, accustomed to English ideas. He fully explains how

the chiefs and tanists—Zemeendars and Talookdars, we might say—though treated in the English grants as proprietors, were not really so in the full English sense of the word; how the devolution of these tenures did not follow any ordinary rules of inheritance, but went from the strongest to the strongest of the ruling family—and how, contrary to the ordinary law of the country, they were not divided, but went to a single person (as did the greatest Zemeendaree and Talookdaree tenures in Bengal and Oude), being treated rather as semi-hereditary offices, than under the laws applicable to property.

There can be no doubt that the village system formerly prevailed in Ireland. The whole system of settlement and valuation is based on it to the present day, the town-lands being exactly preserved, though the villages have generally dissolved into separate farms. Davies, in some passages, speaks as if there was then a still subsisting system of constant repartition of the lands among the villagers—and this is no doubt the system of which there are abundant traces in India and elsewhere—but I suspect that in Ireland, as in India, it had gradually become rare, or fallen into disuse; for Davies, in other passages, very fully and particularly explains how the village-lands descended by inheritance under what he likens to the custom of gavelkind, that is, the law of equal partition among the sons, common to Ireland, India, and most

Aryan countries, where the feudal system has not prevailed over it.*

Just as in India, so Davies tells us that in Ireland, there were among the English officers two parties.

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* Davies says, "The inferior sort divided their possessions after the manner of Gavelkind." And again, "Because the custom of Gavelkind had made such petty fractions and divisions, the number of freeholders was exceeding great. Almost every acre of land hath a several owner."

Although it little affects the question, so much has been said of the barbarous custom of repartition that I must explain the nature of the process, which is not nearly so barbarous as is supposed. It is clear to me from Sir John Davies' statement, that the practice in Ireland was what I know it to have been in India—that is, when a repartition of the lands took place, it was not, as seems to be generally supposed, an equal partition among all the males of a tribe or village, but only a repartition of the land according to existing shares, with the view of correcting the inequalities which might have crept in, and converting scattered holdings into more compact farms. The system of inheritance by gavelkind or division among the sons is uninterrupted. Every man has his fractional share as it has come to him by ancestral descent, and that share is represented by the land which is partitioned off to him. It is only in some parts of Russia that the other system prevails. There the Revenue (the "obrok") seems to be assessed, not on the land, but by way of poll-tax on each cultivator. Consequently the land is also equally divided to all.

In India, when a redivision was made, care was taken as much as possible to leave wells and groves in the possession of their original owners: and as such improvements become common the practice of repartition ceases. It is, I may say, almost wholly disused in India. In Ireland, it seems to survive in the extreme West in the practice of "*striping the land*," as it is called. Surely a system which is still carried out by the influence of noble and gentle landlords cannot be so very barbarous, after all.

Some maintained that, notwithstanding the superior rights of the chiefs, the sub-holders (the ryots, we may say) had always held their lands and were never dispossessed so long as they paid the dues of the chiefs —that they were therefore entitled to a right of occupancy; others maintained, that owing to the uncertainty of the burdens imposed upon them, the arbitrary character of the cuttings and cosherings at the will of the chief, they could not be considered to have any fixed rights, and must be treated as tenants-at-will, especially seeing that under the grants, the chiefs had complete titles in an English-lawyer point of view.

On considering the whole subject of Irish land tenure, Sir John Davies came to the very sensible conclusion that English ideas do not altogether apply —that neither the superior nor the inferior holder can be considered to be the freeholder, but that each has rights according to his degree. The question of fixity of tenure was in fact decided in favour of the tenant. Provision was made for commuting the uncertain cuttings and cosherings into certain payments, consolidating them with the rent, and prohibiting the landlords from taking under any pretext more than the rent thus adjusted; all in terms almost identical with those of Lord Cornwallis's Indian regulations.*

* I hope to have another opportunity of explaining the nature of Indian tenures. I will only say here that it is a great mistake to

There was then done what Lord Cornwallis did not do, but what was afterwards done in the north-west provinces and other parts of India—that is, the holdings and liabilities of the under-tenants were recorded, and their rights were secured not only in theory, but by effective record of rights.*

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suppose that the Cornwallis Regulations made the Zemeendars complete and absolute owners. On the contrary, they were strictly bound not to demand more from the Ryots than "the established rates," and not to eject them so long as they paid those rates.

* Davies says that in Queen Elizabeth's time "the Irish Lords which made surrender of entire countries obtained grants of the whole of them to themselves alone—in passing of which grants there was no care taken of the inferior septs of people inhabiting and possessing these countries under them. So that upon every such surrender and grant there was but one freeholder made in a whole country, which was the Lord himself—all the rest were but Tenants-at-will, or rather Tenants-in-villenage, and *by reason of the uncertainty of their estates did utterly neglect to build or to plant, or to improve the land.*" King James adopted, he goes on to explain, a totally different plan. Commissions of inquiry were issued, "in the execution of which Commissions there hath ever been had a special care to settle and secure the under-tenants; to the end there might be a repose and establishment of every subject's estate, lord and tenant, freeholder and farmer, throughout the kingdom." He further states that on the surrender of a Chief, the Commission was directed "to inquire how much himself doth hold in demesne, and how much is possest by his tenants and followers—what customs duties and services he doth yearly receive out of those lands. This inquisition being made, his Irish duties, as cosherings, sessings, rents of butter and oatmeal, are reasonably valued and reduced into certain sums of money to be paid yearly in lieu thereof. This being done, the surrender is accepted, and thereupon a grant passed, not of the whole country, as was used in former

Under this settlement it is said that Ireland for a generation enjoyed peace and prosperity such as she had never had before, and perhaps has not had since.

But there were defects in the system. With all his liberality, Sir John Davies, and other English lawyers could not get over their prejudice in favour of English law. It was just as if an Indian settlement had been carried out under a very good and liberal Chief Justice of the Supreme Court, and the Supreme Court jurisdiction had been extended all over the country. Liberally and sensibly as the original settlement was made, the English judges could not bring themselves to administer Irish law. After a good deal of doubt it was at last formally decided that the Irish laws were nothing but "lewd customs" which the Courts could not recognise, and that the English common law must be considered to be the law of the land. This introduction of English laws and of purely English courts was a cardinal mistake. The law must con-

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times, but of those lands only which are found in the Lord's possession, and of those certain sums of money as rents issuing out of the rest. But the lands which are found to be possest by the tenants are left unto them respectively, charged with these certain rents only, in lieu of all uncertain Irish exactions."

According to him the result was most successful, insomuch that instead of constant murders and disturbances, there were fewer capital offences in all Ireland than in the English Western Circuit alone, for he adds—"The truth is, that in time of peace the Irish are more fearful to offend the Law than the English or any other nation whatsoever."

stantly have run counter to the actual practice, and under the weak government of Charles I. great abuses resulting from this system began to prevail. Petty-fogging lawyers were constantly picking holes in titles, and under Strafford a general insecurity prevailed. The evil was aggravated by the religious bitterness between Puritan and Catholic which soon sprang up. And there was above all the constantly recurring jealousy between colonist and native. It was as if we had a large body of English colonists settled in India backed by English law and English courts, and the colonists were both pushing back the natives by the use of legal quibbles and other means, and had become engaged in a hot religious controversy with them. Doubtless too, as so often happens, a generation had sprung up forgetful of the ills from which English rule had saved them, but very much alive to present evils and grievances. Hence it is hardly inconsistent with a belief in the satisfactory character of James's land settlement that, the open rupture between Charles and the Parliament giving an opportunity like that of the mutiny in India, the Irish rose against the English in a bitter rebellion. That rebellion seems not to have been one of tenants against landlords; on the contrary, it was headed by great Irish landlords. It was a rebellion of Irish against English, of Catholic against Protestant, and of native against colonist.

Whether Cromwell's plan of colonizing Leinster

and Munster, as James had colonized Ulster, might have been carried out if his power had lasted long enough, cannot be known. As things turned out it certainly failed. The result was to cause great uncertainty and confusion. All the legal rights of the Irish were extinguished, but the new landlords readmitted the Irish as cultivators, and things seem to have gone on pretty much on the old system, except that there was no legal recognition of inferior rights. Among the people the Irish element prevailed and absorbed the English. The result was a population Catholic and anti-English; and it is said that the only effect of the infusion of Saxon blood has been to give the people the way of shooting their landlords which the pure Celts do not usually practise.

Restoration and Re-revolution only still further unsettled Irish tenures. The native system, however, seems to have long maintained its ground. The Right Hon. Judge Longfield was good enough to point out to me a passage in Vallancey giving an account of, I think, Westmeath in the year 1682, from which it is evident that the village system was then in full force. The system of village management—the division of the land into shares called plough lands—the distribution of the burdens according to shares, and so on—all is described exactly as if it were the description of a village in Northern India. The villagers seem to a certain extent to have managed their own affairs, and

to have paid in the lump; but they were already, it appears, more quarrelsome and unsettled than Indian villagers usually are. The functions of the landlord are said to have been principally to receive his dues, and to settle the quarrels constantly occurring between the villagers.

Notices to quit were common in those days—but they were notices on the part of the tenants, not on that of the landlord. We are told that it was a very common practice for the tenants in a body to give the landlord formal notice that they were about to quit him, and that he had better look out for other tenants. Yet, it is added, they would have thought themselves terribly injured and aggrieved if taken at their word. In short, after the depopulation of Cromwell's wars, exactly the same feeling seems to have prevailed as was found in Oude and other parts of India. It was not the landlords who sought to eject the tenants, but the tenants who could bring the landlord to terms by the threat of leaving him—since he knew that it would be difficult to get others, and that the discontented seceders might join a rival or become Tories and Rapparees, and give him infinite trouble.

I do not profess to have fully studied recent Irish history, and I only give (subject to correction) the general view which I have picked up. My impression is that for upwards of a hundred years subsequent to our last Revolution, the march of agrarian affairs in Ireland was

somewhat similar to that in Bengal during the hundred years after we acquired power there. The country was gradually recovering from the effects of war and depopulation, and the general tendency, during the greater part of the time, was rather for landlords to compete for tenants than for tenants to compete hotly for land. The external pressure which keeps the village system together being removed, that system gradually went to pieces and fell into desuetude. Great absentee landlords, being unable to deal directly with large numbers of small tenants, generally let large tracts to middlemen—as is also the case in Bengal and Oude. The middlemen, in pursuance of the native idea of improvement, covered the land with small cultivators who squatted, upon the understanding that they were to pay the customary rents, without special contract. The potato gave great facility for small holdings, and the lands of the Irish ryots went from father to sons, being equally divided among the sons, and a dower being provided for the daughters, according to the laws regulating the descent of Irish and Indian property. Without protection of law the idea of property in their holdings again took hold of the Irish mind. Even when the island was becoming fully occupied and populated, and the state of things was approaching in which the landlords might learn that the tide had turned, and that instead of bidding for tenants, they might choose among a crowd of competing tenants, not

only did the custom and feeling of the country stand in the way of the free exercise of such rights, but also the high rents which the potato and the prices due to European wars enabled the existing cottiers to pay, rendered the landlords very well satisfied with the state of things.

I am inclined to suppose that during the period of the last century, when the upper classes of Catholics were most oppressed by the Penal Laws and they were practically excluded from rights in the land and from political privileges, the relation between landlord and tenant was by no means so bad as in modern days—in fact was generally rather amicable.* The landlords did not seek rights inconsistent with the quiet enjoyment by the tenants of that possession of the land which became in their own eyes a property. The rebellions of the last century, and notably the great rebellion of 1798, seems to have been rather political than agrarian. Possibly up to a certain point the landlords of Ireland would have objected almost as little as did those of Bengal to a law giving fixity of tenure, subject to a fair rent to be revised from time to time.

* It is singular that the principal exception to this statement seems to have been in the north, where not oppressed Papists, but Protestant tenants repeatedly rebelled against landlords who attempted to raise the rents too high. I am not competent to speak of the history of those times, but I suspect it will be found that the Northern tenants then made the stand which has established their tenant-right system against attempted encroachments on it.

Another circumstance, analogous to all that had gone before, caused a renewed competition for tenants, at a time when the laws of supply and demand might have begun to turn the scale. Just as in troubled times in Ireland, and in Oude, and in many other countries, owing to constant struggles among the landlords themselves, or against the Government, a man's strength and position depended on the number of his followers, and he was ready to bid for tenants ready to support him, so the later internecine contests known as Irish elections led landlords to seek for tenants and to consider numbers more desirable than any other quality. In those days landlords never doubted their power to bring their tenants to the poll, and the independent Irish Parliament having given the franchise to the small holders of leases for lives, such leases were granted in great numbers in order to multiply votes.

It was when the cessation of the great European war and the fall of prices rendered many of the small tenants unable to pay the high rents hitherto obtained from them, that landlords first began to doubt the advantage of the old system. I am told that from about 1816 may be dated the beginning of the landlord desire to assert a right to deal with the land more completely than by merely receiving the rent from the parties in possession. Still, in few instances did they go so far as to evict till the political agitation

leading to Catholic emancipation and other claims caused the loss of their political influence, and set tenant against landlord, and landlord against tenant. Then indeed the landlords awoke to the legal rights, the abeyance of which had been compensated by the political influence which had now gone from them. The evictions of tenants and shootings of landlords became more frequent, though not very general. About this time, too, the running out of the long middleman-leases which had been the fashion in the previous century gave the landlords ground for saying that the small tenants settled under the lessees had occupied the land without their consent or privity; while the small tenants, having cleared and long occupied the land without lease or contract, considered that they held according to the usual custom of the country, and only owed rent to the landlord.

Up to this time, exceptional evictions and discords, and very exceptional improving landlords apart, it may be said that not only had the population of Ireland attained an Asiatic density, but the social state was more Asiatic than English. The landholders were rather Asiatic zemeendars than English landlords, and the occupiers were not English tenants, but rather ryots holding very small tenures according to the custom, managing the land in their own way, transmitting it to their descendants under their own laws, and paying to the landlord his customary dues. The position of the occupier

had become valuable, and the claim to fixity of tenure —to hold so long as they paid the rent—was strongly insisted on by the people. As is the case in Bengal, so in Ireland, the right of the occupier to sell was regulated by the custom of each district. In some districts—viz., those of the north, it had become a regular, well-defined, and generally acknowledged system. The tenant right sold for very large sums. In other districts the right was less defined and less acknowledged; but so far as I can gather, it everywhere more or less prevailed—that is, the outgoing tenant generally got something from the incoming tenant, which the people considered to be the purchase-money, however the landlord might view it.

The famine brought about a great change in Irish affairs. It became physically impossible to support life on the very small holdings, and the great exodus to America began. So many tenants were anxious to leave their lands that tenant-right fell to very small value, and the weaker tenants freely offering their holdings for whatever they could get, the landlords and richer tenants bought them out. I believe that in almost all cases something was paid for the tenant-right. The landlords often deny that it was a purchase; they will say that they made or permitted some compassionate allowance to keep the outgoing tenants alive or to enable them to emigrate; but the general language of the country is that the outgoing tenants were bought

out. The idea of sale and purchase of tenant property was not eradicated from the minds of the people, but, so many being anxious to sell, the antagonism regarding the possession of land almost ceased, and a more easy period ensued, which was the occasion of much consolidation of farms.

In 1860 the Legislature, while abolishing all legal right to hold by "tenure" by one Act, was pleased by another Act to concede what was considered a boon to the tenants—viz., the privilege of spending their own money in improving the landlord's land *with* the consent of the landlord. After a formal process of serving notice on him, if he agrees or does not object, the tenant will become entitled to have an allowance for the improvement.

At the same time, the grand economic specific of freedom of contract was tried to the utmost. All difficulties arising out of settlements and trusts were over-ridden by enactments giving limited owners full powers to grant *bonâ fide* leases, and to agree with the tenants for improvements to be made by the latter.

It is admitted that these provisions have been quite ineffectual, and are scarcely at all resorted to.

However, for some years after the famine, the poorer tenants being, as I have said, ready to sell themselves out, and the landlords, or better tenants with the consent of the landlords, ready to buy them out, things had gone on in an amicable kind of way.

But in the last few years the process of what may be called famine consolidation has reached its limits—the demand for land has again become great—the tenant-right has become as valuable as ever, or more valuable than ever—landlords can no longer get rid of tenants or get possesion of land on easy terms—any attempt to get rid of the occupiers otherwise than by buying them out at very onerous rates is very fiercely resisted. That I believe is the true and simple explanation of the recent increase of agrarian antagonism and violence. The question was brought to an issue at the battle of Ballycohee, which may not improbably prove to be as much a turning-point in Irish history as the battle of the Boyne. Mr. Scully, a bold and determined Irishman, was on bad terms with the tenants on this Ballycohee property. They paid their rents, but were in the eye of the law only yearly tenants. He had the legal right to eject them, and eject them he said he would. He served his notices in due course, got ejectment decrees, and proceeded to execute them, with a force of the Irish police at his back. Everything was done entirely within the law. It was a simple and clear issue between the law on the one side and the custom of the country on the other, under which the tenants claimed a right to hold so long as they paid their rents. It was well known that they were prepared to resist the ejectment. The population turned out to see the battle; the tenants fortified and

loopholed their houses, and prepared to receive the enemy. The whole proceeding was such as could only have occurred under native rule in India, or perhaps in an Affghan village within reach of the hills. As is well known, the tenants succeeded in discomfiting the attacking party with great slaughter. Mr. Scully himself survived, with several bullets in his body (he has sold himself to a bad power, the Irish say, and no one can kill him); but public opinion, of, it may be said, *all* parties, was loudly declared against him. He was finally defeated, as much by that opinion as by the bullets of the enemy. He sold the property to a liberal purchaser. The tenants have retained possession, and have enjoyed absolute impunity. Victory is in every sense with them, and in the view of all Ireland it is with the tenant class, in their claim to hold the land against the landlord class, as established in this test case at Ballycohee. Other less intelligible acts of violence have, as is too well known, followed—always with entire impunity—and now it may be said that any claim which the landlords may have had to take possession of the land which they call their own, is for the present absolutely in abeyance in most parts of Ireland. In the counties which have been the scene of agrarian crimes, either the popular law is altogether dominant, or, what is the same thing, the landlord class believe it to be so—think that the man who acts contrary to it is pretty certain

to be shot. Everywhere public opinion at present restrains the landlords. And so both parties are waiting in earnest expectation of the solution of the land question promised by the Government.

All are agreed that the face of the country and the condition of the people have been improved during the last twenty years. Much is due to the efforts of public-spirited and improving landlords, but still more to the simple natural law which, when the population and the supply of labour diminishes, renders the labour more valuable. Time and season have effaced the ravages of the famine, and the country enjoys material prosperity.

THE PRESENT TENURE OF LAND IN IRELAND.

The consolidation of farms consequent on the famine went to this extent, that the very small farms which had sufficed to support the people under the potato culture, were consolidated into farms capable of supporting them under another system of culture. It is almost impossible (in any country) to arrive at a reliable statistical statement showing the average size of real farms, because very many of the smallest holdings are those of persons who do not live solely by agriculture, but hold a patch of ground in addition to

some other occupation. And on the other hand, large grazing tenures disturb the average returns. The consolidation has not ordinarily been carried so far as entirely to divide the agriculturists into the distinct classes of farmer and labourer. The farmer is still also the labourer; the farm is for the most part cultivated by the farmer himself and his sons. Putting aside, on the one hand, small spade tenures held by men who partially work as labourers, or have other avocations, and on the other, specially improved estates, model farms, and grazing districts; also perhaps some more remote districts, where something of the old system may still prevail; it may, I believe, be said, that both in the north and in the south the normal Irish farmer is the man holding from eight or ten to forty or fifty English acres, and keeping either one or two horses. The Encumbered Estates' Court has brought in many well-to-do proprietors. There are some, but it must still be said comparatively few, very good resident landlords. Some great estates are held by rich absentee landlords who are anxious to do their duty, and can afford to do it, so far as the duty can be done by an absentee. Undoubtedly in many cases much improvement has been wrought by many landlords since the famine. Still, in the majority of cases, Irish landlords have not the money to enable them to deal with their estates by expending it as do Scotch or English landlords, and there are many who

would not be willing to do so. It must also be fully admitted that the prevailing tenure is not consistent with the profitable adoption of the British system. I do not think that it could pay a landlord to erect farm buildings, &c., upon the small Irish farms; and the expenditure and trouble now necessary to buy out the tenants and establish large farms on a system foreign to the country, and alien to its habits, render such an operation one of little pecuniary advantage.

In discussing Irish questions it is always necessary to understand that the term "improvements," is there applied to the erection of homesteads and farm buildings and fences and other necessary provision, to which we should not in this country apply it. Improvements in this sense are still ordinarily made by the tenant. A landlord who undertakes this duty is the rare exception; but very many, perhaps most good landlords, contribute in this way, that if the tenant will agree to substitute a slate roof for the old thatch, they supply the materials for the roof—the slates and perhaps the timbers. It seems to admit of doubt whether the slate roof is really more comfortable than the thatch, but the slate has a better and more improved appearance, and it is a great object to induce the tenants to make into manure and put into the land the straw which under the old system goes into the thatch. Hence the arrangement which I have described has become very much the fashion.

It is true that circumstances vary very much in different parts of Ireland, but I understand that almost everywhere, in one shape or another, the claim to tenant-right or to fixity of tenure is prevalent. Certainly, in different phases, it is found both in the north and the south. The north is quiet and prosperous, but it is so under a recognised system of tenant-right in its strongest form, tacitly and much more than tacitly acquiesced in by the landlords.

There seems to be a gulf between the north and the south, and going from one to the other I was reminded of a story of the Indian Mutiny which I told with some effect, regarding those interesting cases of ladies with their noses cut off and their eyes gouged out, which the English public were so desperately anxious to get hold of. In the north the people refer to Tipperary as the place where tenants make sure of their rights. If a landlord does anything obnoxious, or a man is asked what would happen if a landlord did certain things, it is always "his life would not be worth three-halfpence if he were in Tipperary." In Tipperary, on the other hand, the tenants look to the tenant-right system of the north as the tenant's elysium. But when I several times put the question to different people interested on the landlord side what would really happen if Ireland were put by Mr. Bright a thousand miles out in the ocean—who would get the best of it?—I repeatedly got exactly the same answer—

"Oh, the north would march down and conquer the south." Those who take this view seem to forget that, however Tory on some subjects may be the people of the north, they are intensely Radical on this tenant-right question. If the question were one of tenant against landlord, the Protestant landlords would get little help from northern tenants. In the more recent rebellions of the last century, the north was by no means marshalled against the south.

The tenant-right of the north is the right to sell the right of occupancy — the "good-will" it is frequently called—for the value which it will fetch in the market; that is at present a very high value, sometimes as much as the landlord's interest is worth. This represents the combined value of the privilege of occupation and of the buildings and improvements of the tenant. On some estates so much as 40*l.* per acre is a common price, not for select small bits, but for whole farms. It is admitted that the price bears no definite relation to the cost of the improvements, although that may have been, and probably was, an important element in the causes which gave rise to the custom; it is simply, as I have said, the price which the privilege of occupying the land and succeeding to the improvements as they stand, will fetch in the market. It may be that the terms on which the original colonists accepted farms under the grantees may have tended to give rise to the system. The vast

majority of the present tenures are of more modern origin, but a reasonable custom once started is often copied by those who come in afterwards. Be this as it may, the custom is now so well established that no landlord attempts to resist it with any success. The tenant-right is really a very beneficial co-proprietorship of the somewhat indefinite and uncertain character of rights held by custom rather than by law. The landlords certainly have some powers of control and regulation. It is admitted that they have a right of veto over the admission of the new tenant. The transaction is only completed by entry in their transfer books, and they may refuse to receive the new tenant on any fair and reasonable ground. They generally exercise this power to give a sort of right of pre-emption to the adjoining farmers when the farms are so small as to render consolidation desirable; for the tillage farms of the north are as small as in any part of Ireland. Some landlords have striven hard to regulate the price—to say that they will not allow incoming tenants to exhaust their means by giving too much, and to fix a regulation price; but it is notorious that this attempt has always failed. Even when nominally carried out for a time, it is like purchase in the army, large sums beyond the regulation are habitually given behind the landlord's back; there is no limit but the market price; the custom overrides all rules.

The point which is hopelessly puzzling to an outsider is the question how the rent is fixed. It is admitted to be liable to enhancement from time to time. Regular periodical re-valuations of whole estates are, I am told, rare on northern tenant-right properties; but on the occasion of changes of tenancy and such opportunities, the landlord gets an increase commensurate to the general rise in values and rents in the country. There is no intelligible rule. It is one of those things settled among the natives by some sort of rule of thumb which a foreigner cannot exactly understand, as is the case in most countries. The utmost point to which I could get was this: that if the landlord attempted to raise the rent to such a point as to destroy the value of the tenant-right, the tenants would then very seriously kick, and it would be necessary to resort to arbitration or some such mode of adjustment. The value of the land as expressed in rent is so concealed by the predominance of custom, that the parties themselves do not know it. Almost all land agents declare with one voice that the tenant-right does not affect the rent; that the landlord in fact gets as much as he could get under any other system. It is impossible that this can be literally true; but this much is the fact, that the people of the north are so frugal and saving, they have so many opportunities of making money in various ways besides the land, and they are so ready to invest their savings in land in order to

obtain the security of a tenure practically permanent to which they can retire, that they will give very large sums for tenures that yield them a very small return for their money. Further, the tenant-right gives the landlord an absolute security for his rent, and so saves him all risk and anxiety, it being an acknowledged rule that he can at once come down on the tenant-value for arrears of rent; if necessary, he forces a sale, and takes the rent as a first charge on the proceeds. In fact, if a tenant breaks down, the landlord's agent frequently manages the whole affair, sells the tenure, takes his rent, and holds a sort of court to hear and adjudicate upon all claims against the tenant, who gets the balance only, if there be any. Practically, therefore, the landlord suffers far less from the system than might be supposed. He is accustomed to it, and the loss which he really sustains is hid from him. He generally does not care to strive against the custom. It is sometimes said to be extraordinary and unaccountable that farmers give for the tenant-right of a farm a price as high as that which the fee-simple of the land would fetch. But then it must be remembered that what is called the fee-simple is only the landlord-right burdened with the tenant-right of another who is practically co-proprietor. It is quite intelligible that a farmer should give 40*l.* for a right of occupancy carrying the possession which he desires, rather than pay the same sum for a superior landlord-

right which gives no possession. If the two rights could be sold together they might fetch 80*l.*; but I believe that the great majority of the farmers would in such a case rather give 800*l.* for the tenant-right of twenty acres than the same sum for the absolute fee-simple of ten acres.

I have been giving illustrations—taking the tenant-right at a higher figure than is very common—but I gather that in great districts of the north it would average at least 20*l.* to 30*l.* per acre. The power of the landlord being, however, of an uncertain, and, as it were, elastic character, the value of the tenant-right varies very much according to the estate, and the character of the landlord for the time being. When there is a liberal landlord who manages his estate on a well-known system, such as the late Lord Downshire, the tenant-right rises to a high and certain value; when the landlord is hostile it falls in some degree, according as he is able to exercise more or less interference.

The right to sell implies a right to occupy so long as the tenant is not bought out. And the tenant-property descends by inheritance. But the landlord has the right of preventing subdivision and limiting the succession to the single heir whom the farmer may nominate as his successor. I understand that the landlord is considered to have a fair right to take the land on payment of the value when he wants

it for any reasonable purpose, but not at his caprice or for unreasonable and vexatious causes. In practice a tenant is scarcely ever expropriated except by voluntary agreement.

The confidence of the people in the right which the custom secures to them is great, although it appears that the courts of law have never recognised it—a fact which seems to me very surprising, seeing how constantly all parties act under it and how frequently almost all landlords have in practice recognised it by receiving arrears of rent from purchasers of the tenancy, interfering to secure the pre-emption to the adjoining farmers, and such like dealings. I found in one case that a man who had not only erected a capital farmhouse, and exeellent farm buildings, but had actually set up first a scutching mill, and then a very extensive flax manufactory upon his land, had no legal right of any kind—not even a lease—he had done all this solely on the faith of the tenant-right system.

Lord Dufferin's strong objections to the system are not, I think, generally shared by any class in the country. The principal objection made is that it absorbs the tenant's capital, and leaves him without sufficient means properly to cultivate the land. But this is an objection which would apply with still greater force to all rights of property. You cannot have the benefit of the "magic of property" without the disadvantage of its costing money. The Ulster

system secures these advantages at a cost less than the cost of complete property, and it seems to suit the people and the country. True, in Scotland a man would devote the same money to taking on lease and stocking a larger farm: he might more economically develop the resources of the soil, and pay the landlord a larger rent. The farmer might be a more enterprising and productive member of society. But then we must compare the Irish farmer not only with the Scotch farmer but also with the Scotch labourer. Where we have six Ulster farmers we should perhaps have in Scotland one farmer and three labourers. The position of the Scotch labourer is not altogether good; it has been remarked lately that he is too much a wandering prolétaire, without local ties or the softening influence of a home and home surroundings. Although a 200 or 300 acre farm in Scotland, worked by an ordinary farmer and his men, is a very excellent institution, and a 1000 or 1500 acre farm is a very interesting model of industrial enterprise, there may be such a thing as over-civilization. If, as is I think the course of things, the Scotch system more and more tends to the greater farms to which I have alluded, we shall have nothing but great agricultural manufacturers working great enterprises by bodies of workers for wages; the division of society into the widely-separated classes of capitalists and prolétaires which is the great puzzle—as I think the great evil and

difficulty—of the day, will be carried out in agriculture as it has been carried out in manufactures, and nothing will remain of the old Conservative society. The small Irish farmer, if he wants the means of the large Scotch farmer, has at all events the great advantage that he works for himself, not for another. His wife and children rear poultry, carry to market milk and butter, and make money in little ways from which the great farmer is precluded. In the tracts where tenant-right is fully established he has, in virtue of his fixity of tenure, the ornamental garden and pleasant-looking orchard, which you hardly see in a great barrack-looking Scotch farm-steading.

Now that there are so many outlets for young men, and land passes so freely from hand to hand under an established system and among a prosperous people, the tendency is for farms to become larger, not smaller—all the testimony I could gather was conclusive on that point.

On the whole, then, I am not sure that I would not rather see the twenty-acre farms of Ulster, develop into fifty-acre farms under the prevailing semi-proprietory system, than see Scotch 300 acre farms develop into 1000 or 1500 acre farms.

If the people live frugally and poorly, so long as they are content, what is that to us? At any rate, they have produced on such living one of the finest races on this earth. Where have we a more distin-

guished race than that of the north of Ireland? They fully equal the Scotch, from whom so many of them spring. Some of their distinguished men may have had a little beef for a generation or two, others have sprung direct from the people. If porridge and potatoes produce such men, why should we object to a diet of porridge and potatoes? At any rate, be it in the abstract good or be it bad, the main point is that the system of small farms and tenant-right is a fact in the north of Ireland, and that it works at least tolerably well, or is not proved to work ill. The day may come when over-civilization may lead to a tyranny of prolétaires and Reds over the rich among ourselves, and we might then long for a conservative Ireland of small landowners, with something to lose by revolution.

It is sometimes said that tenant-right does not exist in the south, and in the definite sense of the term, the custom, as it exists in the north, is not established and fully recognised. But I have mentioned that, in practice, a tenant seldom goes out without being bought out by some one, and the feeling of the country is that in some way, regular or irregular, he is entitled to something which amounts to selling his holding. On the other hand, the very want of a defined right to sell, and the absence of the inducement afforded by the certainty of a fixed price, makes it often more difficult for a landlord to get possession of the land in the south than in the north. In the north it is a

mere question of money. There is generally land in the market; if the landlord is willing to pay high enough he may buy it. In the south it is more a matter of sentiment, and of class against class. The claim of the tenant is rather to fixity of tenure. Some tenants are the descendants of the ancient cultivators. Many others have either paid something to the former holders for the possession of the land, or have themselves, or by those through whom they derive, reclaimed it from the bog or the hill side—all, with rare exception, have built cabins and settled themselves in their own way. So long as they pay the lord's dues they most strongly hold that it is a hard and unjust thing to turn a man out of house and home without reasonable cause.

The more settled and established tenant-right system of the north is probably in the main due to the more sturdy and independent character of the Ulster people. There does seem to be a wide distinction between the careful, pushing, moderately skilful Ulster farmer and the unthrifty, wasteful, unskilful man of the south, the typical Irishman. Yet there is one main characteristic common to both, and which is testified by all who are conversant with the matter (although it is hardly consonant with the general English idea of an Irishman), I mean the prudent, saving, almost penurious habits of the people. A southern Irishman may, perhaps, apply the labour of two where one would suffice; he may, from mere heedlessness, make two journeys or do

two jobs, where one would suffice; his farm may be slovenly, his wife untidy; but he is so frugal that, somehow or other, if he has but the most moderate opportunity, he very generally manages to save money and to provide handsome fortunes for his daughters. In the case of the Irishman, as in that of the Hindoo, it is the expense of marrying his daughters and the customary obligation of honour to do so handsomely, which weighs on the peasant. Yet the Irishman has this advantage over the Hindoo, that the money does not, to so great an extent, go in ceremonies, &c.; most of it is acquired by the man who marries the daughter, and so is not lost. Even in the south, then, there is really a good deal of money among the tenant class available for improvements, in the Irish sense, under a system calculated to encourage them.

This, too, may be broadly stated, that, all over Ireland, so long as a landlord acts in accordance with the customs of the country, does not too much interfere, and lets things take their ordinary course, he has not the least difficulty in getting his rent. In fact, rents are paid as well as in any country in the world.*

Although Ireland is so much poorer a country than England or Scotland, and although the legal right to

* I have had one or two partial denials of this statement, but very many confirmations of it; and I again assert with every confidence, that on well-managed estates the Irish small tenants pay their rents as regularly as any English or Scotch farmers. I

relief is, I believe, wider than in Scotland, the expenditure on the poor is very much smaller in proportion to the population than either in England or in Scotland. The fact is, that poor though he may be, the independent small farmer or ryot, who works on his own account, is a much more provident man than a labourer for wages, even when the latter makes much more money. In India the population support their own poor, without any poor-law, in a marvellous manner; and although, owing to the excessive character of the seasons, they must break down in a body on the occasion of great famines, it is shown that they survive without assistance under variations of prices which would demoralize and kill any modern English society—that is, when the necessaries of life rise to double and treble the normal prices. So the Irish small farmer is more self-supporting than the English agricultural labourer. In France, careful and saving as are the peasant class, from whom the labouring artisans spring, the latter class earning very large wages in the great towns, are far less prudent, and must be aided by the Government on occasion of depression of wages or excess in the price of food. It may be that the general advantage in point of prudence

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could give instance on instance in which I have been assured by the agents themselves, that the rents have been collected from hundreds of such tenants without a sixpence of arrears, even in the poorest and most unimproved parts of Ireland.

and economy which the people of the Continent are said to have over our English people is due to the fact that they have less advanced in the transition from the self-supporting class to that of earners of weekly wages, who get their money without providence, and too often spend it also without providence, living from hand to mouth. In considering the relative advantages of independent workers and labourers working under capitalists, this tendency must ever be borne in mind.

On the whole subject of Irish Land Tenure, I must once more repeat this, that there is no real contention of one man claiming to be landlord in preference to the existing landlord. If the stories told in England, of old titles sought out and prepared for use, have any foundation, that is a Fenian not an Agrarian movement. The sole popular contention is regarding the relative rights of landlord and tenant. Much of the difficulty arises from a question of words—from the application of the same term to different things; so that people arguing on different sides are, as it were, at cross purposes. A tenant has come to mean on this side St. George's Channel, a man holding under a contract of a commercial character; on the other side of the Channel, the man whom we call a tenant is something for which we have not even a word, since the term villein has ceased to be used, and copyholder has come to mean an owner under a definite title. Hence I have been driven repeatedly to

use the term "ryot," which has almost become an English word, and which is very applicable to the occupiers under the semi-Asiatic system prevailing in Ireland.

Looking at the matter historically, I believe that the present difficulties between landlord and tenant in Ireland are in great measure due to political causes. If there had been no political split between the classes, there would have been little agrarian difference. The landlords retaining their political influence over the Irish people, would have been amenable to Irish custom and Irish opinion, and would not have sought to interfere with the prevailing tenure. This view is supported by the fact, that in the North, where there has not been the political severance, the custom has prevailed, and still prevails.

The whole case in Ireland is, in this respect, analogous to what has occurred in Russia. In Russia the people were in an agrarian sense serfs—they were "adscripti glebæ." They were emancipated. The landlords said, "We let you hold land because we wanted your labour; now that you are freed from any obligation to labour for us, we claim the right to do what we like with the land." The people said, "No; we will not have emancipation on those terms; we have always held the land, and we are entitled to keep it, paying you a fair rent in lieu of the old compulsory labour;" and the ex-serfs have gained their point. In Ireland the people were political serfs: they have been

emancipated. The landholders say, We let you hold the land because we wanted your votes; now that we have no hold over your votes, we claim to do what we like with the land. The people say, "No; we don't admit that to follow from emancipation; we have always held the land, and we mean to keep it."

In the stage, however, which matters have now reached, the religion and race of the landlord have very little to do with the matter. In all countries there is a good deal of that feeling which was lately expressed by an Indian ruler, when he said, "They will bear more from me than they will from you;" that is, they will submit to greater apparent hardship inflicted according to native methods, and in accordance with native precedents, than to lesser hardships inflicted in foreign forms. But then the native understands the modes of successful extortion better than the foreigner. And so it happens that the Irish farmer likes an English Protestant landlord who is neither arbitrary nor an improver in excess, almost as well as a native Catholic landlord—much better than the Catholic landlords who come in through the Landed Estates Court—and that the mere substitution of the latter class for the former would not now remedy the evils complained of. The Celts certainly are amenable to personal influences; they have some disposition to reverence; they like to see their landlord; a discreet resident landlord, who respects their customs

and prejudices, may much influence them for good. But the next best thing to a good resident landlord seems to be a reasonable absentee landlord, who interferes very little, and is content to take the dues of Cæsar, which the people, on their part, willingly and regularly render. The tenants generally prefer to sit under some of the great absentee landlords, rather than to have present a small resident landlord, who vexatiously interferes. In short, they prefer King Log to King Stork. Religion only comes in incidentally to embitter the question under certain circumstances, and to set the priests on the side of disorder; just as the Cartridge question, and the influence of religious prejudices, served to kindle the blaze of the Indian mutiny among a soldiery prepared for mutiny by causes of much older standing than the particular Cartridge question of the moment.

SEVERAL PROPOSED REMEDIES FOR THE AGRARIAN DISCONTENT OF IRELAND.

I commenced by expressing my belief that the great question between landlord and tenant cannot be settled without some compromise of the letter of legal rights, —without more or less touching on the rights of property, in the legal sense. You may farther improve the law of contract, but there is a very moderate

limit to this improvement. You may even throw on the landlord a presumption unfavourable to him in all future cases of omission clearly to record the contract in writing; the result will be, on the whole, unfavourable to the tenant. Many, it may be said most, landlords are content silently to let things go on according to the custom; but if you put them on their mettle and alarm them by enacting that this or that is to be assumed against them in the absence of written contract, they will with some reason insist on the necessity of guarding themselves by contract. The superior, and not the inferior, dictates the terms of express contracts. Contracts in stringent forms, favourable to the landlords, would be printed by thousands, and presented to the tenants. Even Mr. Scully did not directly exercise the right of taking possession of what the law called his own land till he had offered to the tenants contracts so stringent that they were refused.

This must always be borne in mind, that the problem before us is not to draw up a moral code for the guidance of good landlords who desire to do what is right, but to give the tenant some security against bad or imprudent landlords (who would do what is wrong in an Irish point of view) by placing some legal restraint upon them, or, to speak much more correctly, by refusing them the aid of English strength and an English-paid army in the exercise of arbitrary power. Nothing strikes one more than the way in which an

Irish landlord commands the services of the army called police; how Mr. Scully, for instance, was able to march a military force (insufficient, it is true) to do the same kind of work on which the Punjab frontier force is employed.

Great stress has been laid on the grant of leases. Unless leases are made compulsory, the remark which I have made regarding contracts applies to this remedy, and if they are to be compulsory we at once infringe on the rights of property. It has been proposed to force leases by penal taxation on those landlords who omit to grant them, or other similar means; this also is evidently an interference with property. In truth very strong objections to leases are entertained by a large proportion of both classes—by both landlords and tenants, as is frequently found to be the case in India and countries where, the status rather than the contract system prevailing, contracts are inapplicable. In Tipperary I am told that at this moment the only pending notices of ejectment are those served by the agent of an English landlord, in consequence of the tenants absolutely refusing leases; he has served ejectments all round as a means of compelling them to take his leases, which, I understand, are in this case not objected to because they are onerous, or because the rent is materially raised, but simply because they are leases. It is common enough for the tenants to make it a grievance that they have not the security of

leases, but I am convinced that they really only want leases when they can take them as a form of fixity of tenure for the present, as, in fact, postponing the evil day, and that at the end of the lease, they would be still less inclined to turn out than they now are. Irish tenants dislike any leases which are not fixity of tenure in disguise, on the following grounds:—

1. The acceptance of a lease is a surrender of the claim to hold by status, which they are quite sharp enough to see. In the north they will seldom accept leases on any terms unless it be a mere fixation of the rent without prejudice to the tenant right; and in the south* the present hope of a Parliamentary recognition of the status renders the tenant specially averse to leases.
2. A lease binds them down and involves obligations in case they wish to emigrate, sell a field to a neighbour, or otherwise deal with the land.
3. The lease being dictated by the landlord, generally contains covenants about cropping, &c., to which they wholly object.
4. Leases generally involve a re-valuation and increase of rent, both when granted and when renewed.

* Here I must again qualify my statement by saying that in writing this I did not look south of Tipperary. I shall afterwards explain why leases are more popular in the farther south.

5. Although the landlord dictates the lease, the tenant, if he accepts it, pays for it; he bears all costs and stamps, and very likely a fee to the bailiff besides. It is the custom in Ireland to throw all burdens, public and private, on the tenant, county cesses as well as the cost of leases. This is quite consonant with the custom of an Asiatic system, and it is another symptom of the Asiatic character of the Irish system.

The landlord's objections to leases are chiefly these:—

1. He says, with some truth, that in Ireland a lease is not really a bi-lateral, but in practice a unilateral, contract—that is to say, the landlord is bound by it, but the tenant is not bound a day longer than he chooses; he may throw it up whenever he likes, and go off. You cannot get blood out of a stone.
2. Long leases destroy the hope of the landlord's regaining political power, and in great degree, he thinks, deprive him of social power.
3. He often finds difficulty in getting the tenants to take his leases on terms satisfactory to him.

In the condition of things existing in Ireland, where the tenant usually builds and fences, no leases would be accepted as a satisfactory solution of the question for a less term than thirty-one years, and a longer period is generally thought necessary. That means

postponing the whole question to another generation It would be hardly fair to throw the burden of dealing with it on that generation, even if we made such leases compulsory, and so confiscated the rights of the landlord. It is too much the fashion in these days to throw upon posterity the payment of our wars and our luxuries, and the solution of our difficulties. Economically, too, the farmer could not fairly be expected to build a decent house and offices, and make other improvements without a lease practically amounting to fixity, so far as the present generation is concerned. It is the greatest possible mistake to suppose, as some people seem to suppose, that the Scotch farmer makes improvements on the strength of his nineteen years' lease. He does nothing of the kind. He wont put a stick or stone on the land. He requires of the landlord to do all that: to supply all buildings and fences and to put them in complete repair and thorough order before the farmer takes possession. Drainage and such permanent improvements are done by the landlord or at his cost. When during the currency of the lease the farmer wants something done beyond the terms of the contract, he does not do it himself, but puts a pressure on the landlord to do it; and the landlord generally meets him by saying, "Well, I will do it or give the money if you will prove that you really believe in the paying nature of the improvement, and do not merely want it in addition to what you

bargained for, by paying me five per cent. on the outlay for the remainder of your term." It is evident, then, that the system is entirely different; and when an Irish landlord says, "How would you like it if the man to whom you let on a lease your farm or your house claimed a right to remain there for ever," I can fairly deny that the argument would apply to totally different conditions, or that the concession of rights to Irish tenants would form any precedent in the case of Scotch or English tenants. You must alter the whole system, and place landlords and tenants in an entirely new relation before you can compare this side of the Channel with that.

I know very little of English agrarian affairs, but this much I know, that a form of tenant-right is an established fact in several English counties, and the Courts of law recognise and give effect to the custom. Such is to some extent the elastic character of English law, admitting the graft of custom on the law, and it seems to me to be a mark of alien rule, for the benefit of the aliens, that Irish customs have been all along ignored by the English courts in Ireland. In that omission is to be found in my view the real point where the shoe pinches.

The tenant-right recognised by the Courts as a custom in some English counties is, I believe, a right to compensation for certain manures, crops, &c., left on the land. And it is in a similar shape that most

projects have proposed to satisfy the fair claims of the Irish tenants. We have, however, in fact, come to the present point of difficulty because of the failure of all projects founded on that principle. I believe that Sir William Somerville, Lord Athlumney, spoke the opinions of the most competent persons when he said that the difficulties in the way of any system of this kind had been found to be in Ireland insuperable. We have not only the fact that all schemes for a legal settlement on this basis have failed, but the stronger fact that in the practice of the country, whether in the north or the south, or in any other part, it is scarcely ever attempted to estimate the actual value of the improvements. Whatever is paid for tenant-right is paid according to the value of the right of occupancy and the custom of the country in that respect—not on any estimate of the particular improvements.

In truth, in this matter, there are two sides to the shield discrepant and irreconcilable beyond measure. Not only frequently in the north, but sometimes in the south also, the tenants have put up substantial buildings, which no one could deny to be improvements. But ordinarily the state of things is this—the tenants say that they have made all the improvements and given the land its value as much as the smith who forges the iron and puts a handle to it gives value to a spade; the landlords deny that the tenants have made any improvements whatever which in any

proper sense can be called improvements. The tenant says that he, or his predecessors, have reclaimed and rendered culturable the land, built the homestead, set up the fences, done everything; and that the value he sets on these things is real and not imaginary he proves by showing that men of his class are ready to give large sums for his right of occupancy. The landlord says that far from improving the land he has utterly exhausted it by bad farming, and having done so wants to sell what is not his and go off with the money to America; that so far from the wretched homestead and farm buildings and divisions of small fields by great wasteful fences being improvements, they are mere burdens upon the land, which can only be well utilised by going to the expense of levelling the fences, throwing down the houses, and consolidating the farms with adjoining farms.

The improvements are of great value to the tenant —they are worse than valueless to the landlord. Between these two conflicting views no mortal man can decide the real value. It would be like trying to strike an average between incommensurate things, or deciding at an agricultural show between the relative merits of a horse and a cow.

No plan of compensation which is not retrospective —which does not apply to improvements already made —can be any satisfaction of the claims of the mass of the existing tenants. If retrospective compensation

be given, you cannot in any degree satisfy the tenants unless you give it on the scale to which they conceive that they are entitled—that is, by some rule which shall give them something like what they can now get from an in-coming tenant for the "tenant-right" or "good-will," or "payment for freedom from outrage," or whatever landlords may choose to call it. If any rule were set up which would give them less than they get by the existing custom, the tendency would be to substitute the rule for the custom, and the tenants would be worse off than they are now. If compensation were given on so liberal a scale as to satisfy the tenants, the buying out of tenants would be so expensive that there would practically be fixity of tenure, and the landlords would be just where they now are, in so far that they could not get rid of a tenant without buying him out at the customary rate. The legal right to over-ride the custom ceasing, the fixity of tenure would be assured and secured in all cases except those where the landlord can afford to buy out the tenants. He would hardly care to pay heavy sums, with the chance of being shot besides, and in practice tenants would only go out by amicable arrangement, on being paid to do so.

Another difficulty in the way of any compensation for past improvements, based on estimate of the improvements, is that some landlords have given partial assistance, such as the roofing which I have

mentioned, and there is no record of what was done by either party.

If compensation is to be given for future improvements only, it could but affect those claims, as it were still unborn, which may trouble another generation, and enable some spécially improving tenants to improve farther. And we always come back to this, that you are not a step in advance unless by some compulsion you interfere with the landlord's rights of property. If the farmer is a tenant-at-will the landlord may say—and if he is alarmed by a law he *will* say —"You shall not improve except upon terms which I prescribe. I will turn you out if you do." Forms of agreement favourable to the landlord would in this case also speedily be devised. Either the landlord must submit on compulsion—the law compelling him or the fear of being shot compelling him—and a new tenant-right will spring up; or he will not submit at all except on terms which, being advantageous to him, he would have been willing enough to make if he and the tenant had been left to arrange together. It would hardly avail to make a law effectual only against those landlords who happen to have granted the very leases which we have been crying out that it is their duty to grant, while it fails to touch those who have granted nothing.

Supposing it were somehow arranged that compensation for future improvements should be granted,

you still have difficulty in estimating the value of improvements. It would be very unsafe for a good Irish farmer of the present day to build on his small farm of twenty or fifty acres in the expectation of compensation for the amount added to the actual letting value of the land; for when the time for compensation comes, he may find that the most profitable form of letting is in 500 acre farms; that his expenditure adds nothing to the letting value, and that he is to receive nothing.

The question of *exhaustion* of improvements is as difficult as the value of the improvements. If the matter is settled by special contract there is no need of a law; if not, what is to be the guide in deciding whether an Irish improvement is exhausted or not? You may decide whether manure put on the land is exhausted or not; but if an Irish tenant has lived a hundred years in the homestead built by his forefathers, while the landlord may say that he has been compensated by the use for 100 years, the tenant on the other hand thinks that the 100 years' occupation gives him all the stronger prescriptive right to remain.

On the whole, then, my belief is that you can never satisfy the people by any scheme of compensation for improvements except one which runs into and really becomes in practice identical with "fixity of tenure." You may possibly manage to make arrangements by which a few very exceptionally model tenants, willing to

expend money on thorough drainage and such improvements of unquestionable benefit to the land, may be enabled safely to do so; but you will not pacify the body of existing tenants, or even enable the ordinary good tenant with money in his pocket to build himself a better house on the security that he cannot be turned out without recovering his money. If you can force or induce the landlord to give him a long lease on reasonable terms in lieu of all claim to compensation, you may half satisfy him for the time, but when the lease runs out his son will probably be as aggrieved as ever was the father.

As I understand the matter then, it comes to this: that fixity of tenure, compensation for improvements in the sense in which the people claim it, and tenant-right in the sense of the right to sell, are all nearly one and the same thing. Fixity of tenure would be sufficiently secured by any rule of compensation which would make it ordinarily unprofitable to landlords to buy out tenants. When the tenant wishes to go, and the landlord is not prepared to buy him out, the matter is settled by permitting the tenant to sell to some one else who is willing to pay the money. The claim of the tenant is to have one or other of these things, according to the custom. And there is this further claim of the tenant—viz., to a right to live—that is to say, that the rent shall not be forced up to such a point that he cannot live. He must be free

to remain on the land on such terms that he can live in the frugal way in which he is content to live—in fact, must have sufficient wages for his labour and return for his small capital.

The scheme which has attracted most attention, and has been received with most favour, is that of Mr. Bright for acquiring the estates of landlords willing to sell, and giving the tenants an opportunity of becoming owners on favourable terms. I have no doubt that this plan would be good so far as it goes, but in addition to the objection that it involves the use of English money, there is this also to be said, that the plan cannot within any reasonable time be carried far enough to be a real remedy for the grievances of the mass of the Irish people—it would only benefit a select few. I believe it would be most desirable that Government should on reasonable terms acquire a few large Irish estates, put a good Indian collector in charge, and try the effect of model management on Asiatic principles; such an experiment would, I daresay, be well worth the money. But I do not see how it could be carried out on a sufficiently large scale to give general relief, except by bribing out the landlords at exorbitant prices. If this could be done, there might be political objections to a general 'ryotwar' system in Ireland, by which landlords being bought out, would be absolved from all the functions now attached to their privileges.

Mr. Gladstone spoke of the Church-lands as the basis for an experiment, but we have already a host of middlemen—bishops' lessees, and the like—who have sprung up and claim to have rights which cannot be set aside. I understand that the only free lands are some of the glebes, but small patches, and for these capitalists would probably outbid small farmers.

Again, if great estates were bought, it must be remembered that we should not get the land free to give to deserving farmers ready to buy and to pay up gradually; the estates would be encumbered with the claims of existing tenants, which the Government certainly could not ignore. The farms could only be offered to the existing tenants on those particular farms, and of them some might, others most probably could not or would not, undertake the payments necessary to acquire the ownership. I am told that sales in small lots, arranged to give facilities to the tenants, have been repeatedly tried in the Encumbered Estates Court, and have never succeeded otherwise than very partially. It really seems that the Irish peasantry scarcely desire to own land in our sense—it is contrary to the custom of the country; they prefer to invest their money in farms on the customary tenure—that is, by paying for the tenant-right. Unless, then, we are prepared to buy Ireland outright, and make a ryotwar settlement, I am inclined to believe that Mr.

Bright's scheme could not afford general and speedy relief.

Mr. Dix Hutton certainly puts a similar proposal in a very attractive form in his scheme for State Land Banks, which are to advance money to the tenants for the purchase of their farms at 3½ per cent., and to receive 5 per cent., so that 1½ per cent. forms a sinking fund to redeem the land in thirty-five years.

His view is, that taking the value of land in Ireland to be twenty years' purchase, the tenant paying 5 per cent. will pay no more than his present rent, while he at the same time gradually acquires the property in the soil. He would also immediately obtain that which he most covets—fixity of tenure.

No doubt if the plan could be carried out, Irish tenants would gladly accept it. Disguise the matter, however, as we may, there can be no doubt that whether we directly give money or whether we give our credit and advance money below the market rate, the benefit to Ireland is conferred at the expense of England and Scotland. And, as Mr. Hutton himself remarks, the basis of the measure such as he recommends, which was carried out in Prussia, was that the Prussian peasants already possessed in right of a previous settlement certain fixed rights in the land, whereas the Irish tenants have, in the eye of the law, no such rights. The supply of money and consequent

demand for land would raise the value in a free market. We could hardly suppose that landlords would willingly consent to sell, for twenty years' purchase, the particular farms of the best and most solvent tenants dotted here and there over their estates, while they retain the risk and trouble of managing the farms of the inferior tenants who have not arranged terms of purchase. The thing could hardly be carried out as a general measure without first conceding a tenant-right, or unless the Government bought whole estates and then dealt with them as Mr. Bright proposes. In the rapid rise of the shares of the Telegraph Companies, and in other instances, we see the effect of any scheme of Government purchase. Even at twenty years' purchase the Government would for thirty-five years be burdened with the whole risk and labour of collecting a full rent from the tenants—and on the terms on which extensive purchases by Government could be made in a free market, it would be necessary to charge the tenants a higher rate. If the money for the purpose can be found, I have no doubt that the plan, so far as it goes, is a most desirable one; but in practice I believe it must be limited to the cases in which the richer tenants can pay part of the purchase money and a margin beyond the rent to sink the remainder.

If Mr. Bright's scheme does not go far enough, the objection which I venture to make to Mr. Mill's scheme,

on the other hand, is that it goes too far. It would give the Irish, in fact, more than they claim—not only fixity of tenure but fixity of rent—would turn all tenures into perpetuities. I understand that the rent would be fixed at a figure somewhat in excess of the present rent as a compensation for the landlord's chance of increase. That would be a very desirable arrangement in most respects, and in the north would probably be very acceptable to the tenants. I have heard of the purchaser of an estate who has made a very good thing of it by offering perpetuities at the present rent to the tenants, on payment of a high fine. But in great part of Ireland it may be doubted whether the people would consent to much present increase of rent with a view to prospective benefit: they might have the feeling, which often crops up in India, that the time to come is not safe to count upon. Perhaps Russians or Fenians may rule the country, and disregard present bargains. However, be that as it may, the great objection to Mr. Mill's plan is, I think, the enormous expenditure of English money in compensating the landlords which it involves. Say that the rent of a farm is now 10*l.*, and that as estates sell in Ireland it is worth (the landlord's right I mean), eighteen to twenty years' purchase, 180*l.* to 200*l.* Mr. Mill, in commutation of future increase, would increase the rent by, say 25 per cent.—it would be 12*l.* 10*s.* He would then allow the landlord to claim the amount

in British funds which would yield an income equal to the rent—that is to say, something little short of 400*l*. Of course, almost every landlord (whose rights are reduced to a mere rent-charge) would at once accept the offer of a sum about double the present value of his estate, secured in a shape safe from the risks of assassination, Fenian invasions, and revolutionary tenant-right bills; and so we should have Ireland as a State property at a very heavy cost.

Mr. Butt's plan is analogous to Mr. Mill's, omitting the proposal that the landlords should be compensated by assignments of English money. He would have a general valuation of the land, and give compulsory leases for sixty-three years at two-thirds of the rack rent. I do not quite understand the principle on which one-third is deducted from the full rent, but letting that pass, and assuming that a fair and equitable rent is proposed, it seems to me that sixty-three years is practically a perpetuity so far as the present and the next generation are concerned, and that it would not be fair to throw on our grandsons or great-grandsons a question more difficult than that which now puzzles us. I take then Mr. Butt's proposal to be in practice to give fixity of tenure and fixity of rent, with the very reasonable addition that the price of the main articles of produce may be recorded, and the landlord may claim a re-adjustment of rent every seven years in proportion to the prices of produce, as if the rent

were a corn rent. This is in fact nearly the plan which has been followed in India in regard to those tenants who have a right of occupancy.

The blot in Mr. Butt's plan is, I think, that he applies it indiscriminately to all agricultural tenements. He exempts building sites and demesnes appertaining to mansion-houses, but all other lands now in the occupation of any tenant, according to one clause, or which have been three years in his possession according to another, are to be brought under the operation of his proposed act, which is to over-ride and nullify all contracts whatsoever. It seems to me that it would be neither fair nor expedient to apply a rule of this kind to farms which are really held on pure contract tenures. Some proprietors have at a great expense bought up the status-holdings of the small tenants, have consolidated the lands into large farms, have built steadings, drained and otherwise improved, and have let the farms on lease to Scotch farmers and others on the Scotch system. Any plan for recognising fixity of tenure should I think distinguish between the status tenants who have a claim to fixity under the custom, and the proper contract tenants who have never claimed and cannot on any ground claim any such right.

Mr. Keane, an extensive land agent in the South, gives important testimony to the reality of the customary rights of the tenants. He insists on their claim

to compensation for what he calls "occupation right," if they are dispossessed, and exposes the evils of the present system. He would give to every tenant who has been in possession for ten years, this "occupation right" to compensation at a fixed rate per acre—five years' rent in small holdings, and three years' rent in large holdings. This penalty on dispossession having pretty well secured the tenants from eviction, he would in fact, by a very heavy penal taxation in all holdings for lesser terms, compel landlords to give leases for thirty years, called parliamentary leases, and he would again compel them to renew the lease ten years before expiry, by penal taxation and by a deduction from the rent to cover the "occupation right" on all unrenewed leases with less than ten years to run.

There is I think much that would be beneficial in these proposals, but they deal very summarily with the landlords, and are open to the same objections as those of Mr. Butt—viz., that they do not distinguish between tenants who have, and those who have not, a claim to fixity of tenure or compensation for improvements.

And there is the farther objection—fatal, I think—that the value of "occupation right" is arbitrarily fixed without reference to its actual value in the locality, being put at the same price for north and south, for the strongest tenant-right, and for the contract tenure of yesterday — for the most improved land with the

best buildings, and for the most exhausted land with only hovels on it. I apprehend that Mr. Keane means the price he puts on "occupation right" to be not so much a price to be really paid, as, like the rest of his scheme, a system of penalties on eviction which shall force the landlord to come to terms with the tenant, and so bring about a practical fixity of tenure.

The majority of the Commons' Committee of 1865 recommended that the *principle* should be maintained that tenants should only be entitled to compensation for improvements made *with the consent of the landlord*, and the bills subsequently introduced have kept very near that principle, existing improvements being ignored.

Mr. Chichester Fortescue's proposed bill might seem to give the tenant a general right to compensation for certain *future* improvements specified in the Bill, but the rule is only to apply to tenants-at-will and to tenants on leases for *less* than thirty-one years which may be made *after* the passing of the Act, and is not to apply to cases where the tenant is restrained by the terms of the contract; so that in one case the landlord may turn out the tenant if he tries to improve, or in the other he may provide by contract against the claim for compensation. Moreover, after a certain time the improvement is considered to be exhausted; and in any case the tenant cannot claim more for it than

the increased letting value of the land; so that if it is unprofitable, if it either turns out bad or the landlord can profitably consolidate the farm so that the improvements are not required, the loss is the tenant's.

Lord Mayo's Bill also applies to future improvements only. It would give the tenant a claim to compensation for certain improvements made without the consent of the landlord, and authorize the Treasury to lend the money and charge it on the land. The tenant must go to a Commissioner in Dublin, who must, I suppose, send competent persons to examine the proposed improvement and hear objections. If the public authority considers the improvement profitable and advantageous, and the landlord does not take a practical objection by turning the tenant out, he may make it, and the charge on the land will cover the whole sum expended.

There is also in Lord Mayo's Bill a very excellent provision modifying the English Law of Fixtures, and enabling the tenant to carry away his materials; but this is restricted to buildings *hereafter* erected, and to cases in which there is no contract to the contrary.

A few of the higher class of richer tenants might take advantage of Lord Mayo's Bill, but it would scarcely be applicable to the mass of petty Irish farmers. The occupant of a few acres could hardly go

through the necessary processes and obtain sanction to his improvement whenever he may want to put up a cottage or a cow-house or a pigsty, even if his position were otherwise such as to make him free to do so.

The fact seems to be that the jealousy of the landlords, influenced by English ideas, of anything which touches the "sacredness of property" is so great that it has been necessary to pare and pare all measures in favour of the tenants, and to encumber them with so many safeguards of the landlord principle, that very little is left. I hardly see how any combination of the Bills of Mr. Chichester Fortescue and Lord Mayo could benefit more than a few of the highest class of tenants. And, after all, it is the lower mass whom we must satisfy if we would have peace.

Lord Mayo's Bill did, however, concede the principle that the sacredness of property may for a great public end be violated. It also appears that in 1852 Lord Derby and Sir Joseph Napier went a good deal further, and at one time proposed to give compensation for improvements, already made, with due regard to the money and labour expended, the enjoyment of the improvements, and their present value to the estate; but the proposal came to nothing—it was too much for landlords, Whig and Tory.

THE PLAN WHICH I VENTURE TO SUGGEST.

I BELIEVE that we must either give up the attempt to satisfy the people or go a good deal farther than any of the Bills which have been mentioned. It is unnecessary to transfer the whole of the landlord's rights to the tenants, but we might take a middle course between that extreme and the other extreme of refusing everything that would afford real satisfaction to the masses.

Considering the question historically, and taking existing facts as facts, an obvious suggestion would be to do what has been done in India and Prussia and Russia —to recognise the occupiers as in some sense co-proprietors of the soil. A law similar to the Indian law might be passed, giving to the classes of tenants who may be supposed to hold rather by status than by contract (to those who have come in without special contract, and have invested their own capital in the soil, or who have paid previous holders for the privilege of occupying) a definite right of occupancy—fixity of tenure in fact. Provision might be made for the right to sell, subject to reasonable veto of the landlord on the new tenant proposed to him, and for inheritance, subject to a veto on excessive subdivision, sub-letting, and so on. The rent would be subject to revaluation

from time to time, but provision would be made for enabling the parties to arrange a present increase once for all in lieu of all claims to future enhancement, as proposed by Mr. Mill.

It might well be said that all this would only be giving to the people by law what in practice they already have.

It is no conclusive answer to a proposal of this kind that considerable objections may be taken to it. There are few solutions of a difficult question which are not open to objections. It is only a question of preferring lesser to greater evils.

On the whole, however, after turning the matter much over in my mind, with the light of my experience of such systems in India, and an earnest wish to realize the particular circumstances affecting Ireland, I am inclined to think that the objections to the adoption, pure and simple, of the plan which I have suggested preponderate. The plan is one which a strong and impartial foreign Power might perhaps adopt—which we might adopt if Ireland were in India. It might be said, "We must have peace. Peace is only to be got by conceding the popular demand. Why not concede it handsomely at once, have done with the matter, and get a chance of ruling the country quietly and easily?" But still, since we are not altogether foreign rulers, since Ireland is already in some degree a colony, since we have there some

landlords who improve, and to whom we must look to lead agricultural improvement (an element altogether wanting in India), I should like to modify the plan.

The main objections to it which occur to me are the following:—

1. It would be a one-sided compromise—that is to say, it would be giving to one side all that they claim, and in some sense more, for an absolute right by law is more than an imperfect right under an elastic custom not recognised by law.
2. It is more than the landlords would accede to, or the Houses of Parliament, in which landlord and capitalist influence is still so strong, would be likely to grant.
3. It would not be possible to frame a general law which would equitably meet all cases. Any law of that kind must in some degree roughly cut the knot. Injustice would be done to some landlords. The equitable claims of some tenants would not be met. We should have a period of complaints and recriminations, as has been the case in India and in Russia. A strong foreign or despotic government might hold on through all this and see things settle down at last; but as parties are arranged in this country we could hardly do it.

4. Much litigation necessarily follows upon such a cutting of the knot by law. Each party is put on his mettle and tries to take the utmost possible advantage of the law; but in the end, under our lawyer-ridden institutions, litigation always tends to the advantage of the rich and powerful. It would be scarcely possible to pass through Parliament any law which would not be so closely fitted to all that the landlords could in equity claim, that, with the weight of litigation against them, the tenants would probably in the end get less than they now have under the custom; and in that case they would still be discontented. I can scarcely imagine any law passed by Parliament which would put the Ulster men in a position so favourable as that which they hold under the custom.

5. In my opinion property in land exactly defined by law has, under an Asiatic system, disadvantages which are as yet insufficiently appreciated in India, but which time will develop. At first we seem to have the advantages of both systems—of the native customary system, and of fixed law. The men whom we establish by law, whether great zemeendars or village proprietors, are those who have succeeded to their positions under the native system of natural selection—the best or strongest of their

race; the men who, in virtue of superior energy, have murdered their uncles, supplanted their cousins, and attained the position due to their wits and governing powers. So long as they survive and the written and natural laws are in accord all goes well. But in the next generation the strong man is frequently under our law succeeded by a fool, or a child, or a knave, or the inheritance is divided among a dozen discordant and irreconcilable people, or sold to a stranger; the man who would have come to the front is shut out; the written and the natural laws are altogether in disaccord. This objection does not fully apply to the property of the actual cultivators. Still, it may well be that in Ireland a rigid law, which would shut out the present undefined but considerable power of the landlord, and substitute a strict legal division and definition of property, might have its bad effects. No doubt such a law would to some extent tie the hands of the good and improving landlords who have shown the way to progress, by depriving them of power and making them more or less stipendiaries.

We have hardly sufficient information to enable Parliament to legislate in a way which would meet all cases in all parts of Ireland. The Devon Commissioners collected a mass of information, but it is now

somewhat out of date, and both that and all subsequent commissions have been too fearful of the rights of property, or too divided to approach the question in a bold spirit, and bring out fully the occupying tenant's views. If there must be legislation in detail, another preliminary commission would probably be necessary; that would require time, and in the present attitude of popular expectation—hopes ever growing, class-jealousy ever widening—delay must be almost necessarily fatal to the prospect of a peaceful settlement on reasonable terms.

In my view, the safest course is to keep before our eyes, as the one main object, the maintenance of the present distribution of interests in the land as nearly as possible as they exist, to make as little change as possible, to accept as nearly as may be present facts. I doubt whether any detailed law which could now be drawn would effect this object. What is necessary, is to engraft the custom of the country, and the several customs of the various parts of the country, on the law as now administered by the courts—in short, to enact that custom shall no longer be ignored, but shall have force and effect. To attain this object, the plan which seems to me most likely to succeed, without too much jarring, would be to introduce for a time a sort of despotic power. I would have a commission with power not only to inquire but to act. They should have a general instruction to give effect

to the custom, and to restrain landlords from exercising legal rights contrary to the custom. Under them would be local courts of conciliation and arbitration. The tenants, instead of shooting Mr. Scully, would have power to summon him, and make him show cause why he should not be restrained from acting contrary to the custom in ejecting them without reasonable cause; and so in all other cases of contention between landlord and tenant. The central authority would control and render uniform the proceedings of the local tribunals—would collect and systematize the results. In fact, we should commence by establishing Courts of Equity, in the original and literal sense of the term—simple courts, with an untechnical procedure, with power to do justice between man and man on the general principles of equity and good conscience as interpreted by the customs of the country. Eventually, as has been the case with our older Courts of Equity, rules equivalent to law would be established, and we might hope that, warned by past experience, we should not permit these courts to become worse than the original evil. The equity being consolidated and crystallized, might in the course of a few years be turned into law.

I do not deny that I believe this would practically lead to something like fixity of tenure in a large number of holdings.

It must, I think, be conceded that the Commis-

sion must restrain a landlord from ejecting tenants without sufficient ground, and must give the tenant, who can fairly claim it, compensation such as is ordinarily received by others similarly situated in the same district, if for any reason he is ejected. When the landlord wishes to increase the rent of status-tenants, he may be restrained from raising it to a point beyond what the practice of the neighbourhood and the general increase of values show to be a fair rent.

Still, all these things will be subject to elastic customary rules. The landlord will still exercise due influence, as he now may. It comes to this, that bad landlords would be compelled to act as good landlords—good not only in the sense of being good capitalists, but in that of giving due consideration to the feelings of the country—now act. Well-managed and peaceful estates would be managed as they now are; badly managed estates would be brought under a certain public control. In this way we might tide over a transition state, till capital and improved agriculture have taken full root, till some lands have been absorbed in absolute property by capitalist landlords, and others have crystallized into well-established peasant properties—into copyholds in fact.

The Act of 1860 putting an end to "tenure," putting everything on the footing of contract, and so *entirely changing the state of the law as to the relation between*

landlord and tenant, seems to me more distinct confiscation than anything that has been proposed in favour of the tenant. Reverse the words—say that ALL holdings shall be deemed to be by "tenure," and not by "contract"—what would be said to that enactment? If anything effectual is to be done for the mass of the land-holding people, I think we must return to the old state of things. Whatever is really held by "tenure" should be regulated by the customary law—what is held by genuine contract only should be regulated by contract law—one holding should not be falsely disguised in the garb of another.

I would repeat that I am merely putting down my impressions subject to every correction; but my present impression certainly is that some such plan as I have suggested might be elaborated, under which a powerful commission might weld the custom into the law, and so give satisfaction without great disturbance, too violent jar, or too revolutionary change on the one hand, and without materially checking improvement on the other.

June 15th, 1869.

PART II.

A VISIT IN THE AUTUMN.

SINCE the first part of this volume was written, I have again visited Ireland, and tried, by the fullest and most unreserved communication with people of every grade, to make further progress towards mastering the most difficult subject which now engages public attention. A stranger going into the country is too apt to hear more of the views of the upper class than of any other. He comes more into contact with them, and they are better posted up in the arguments of the day, and put their case plausibly and well, as all Irishmen do. Yet it is quite his own fault if he does not also learn all that the lower classes can tell him. The accessibility and communicativeness of the people are well known; and there is this special advantage in Ireland, that they understand and talk English much better than English rustics. They have learned it as a foreign language, and instead of rude and varying local dialects, speak, it may be said, the written language of the upper classes of Englishmen. Consequently there is not

the least difficulty in making interrogatories fully intelligible to them; and although mere petty farmers generally cannot argue their case as do landlords and landlords' agents, there is no difficulty in getting from them by a little cross-examination their view of the facts, and their ideas of right. I am pretty well practised in the art of cross-examination, and can at least say this, that if I have not obtained some insight into this land question, it is not for want of the fullest hearing of every possible variety of view of every class in the most varied parts of the country. If I had attempted to take down all the conversations I have had, and could do so with any approach to correctness, I might fill volumes with matter which would, I think, be very interesting; but I did not attempt this, and have only steadily worked towards a knowledge of the points most bearing on the land question.

Many others have undertaken the task of recording what they see and hear, and since I last wrote a great literature has sprung up in connexion with this question, in which the ideas and claims on both sides are most fully set forth. It would be the height of rashness to attempt a confident solution of the hardest question that has puzzled this generation, even on a complete knowledge of the facts; but we have now heard so much of what is admitted and what may be conceded on either side, that the issue is much nar-

rowed. The channel has thus been, as it were, in great part buoyed off; so that if we do not actually see our way into port, we have a good general idea in what direction the port lies, and can forecast the limits within which we must seek it.

It has been said with truth that there is not one Ireland but thirty-two Irelands; that is, that every county differs, and sometimes every part of a county. But nevertheless my impression is that while there is great difference in details, the same general principles apply throughout, and that in applying these principles the whole country may be roughly divided into three or four zones, rather than into thirty-two counties.

In attempting to narrow the issue, we must first form a clear idea who are the parties between whom the issue lies. There is an extraordinary unanimity of general opinion and feeling upon the subject among most classes of Irishmen, but the parties directly interested in the cause may very well be recognised. In this respect, I venture to think that a recent speech of the Marquis of Hartington is somewhat calculated to mislead. He says that it is not only a question between landlords and farmers; that the farmers are only one class of the community, that the interests of other classes, especially those of the labourers and of the classes interested in manufacture and trade, must be equally consulted. Now no one would more readily than I subscribe to the doctrine that in countries

where the labourers are the great mass of the community, their interests, even if but indirectly affected, should be consulted above all others. But in Ireland we must bear this in mind, that the people whom we call farmers are themselves the labouring masses; in mere numbers they much exceed the labourers who work under them.*

As respects the interests of artizans and tradesmen in the general prosperity of the country, it seems enough to assert this, that whatever may be the respective merits of great and small culture, the latter is proved by the experience of many countries to be not

* I have seen it stated that in 1861 the number of agricultural labourers in all Ireland somewhat exceeded the number of "occupiers"; but then it must be remembered that only the actual tenants can be classed as "occupiers," while their sons and other relations working with them, though they are not occupiers and may be classed as labourers, are really of the farmer class in the sense in which I use the term. The agricultural "occupiers" are stated to have been about 540,000, which at the usual calculation of five to a family would account for half the population of Ireland; and so many grown-up sons with families, and others, assist their relations, that the number to each occupancy should be put higher in Ireland. Again, since 1861 the greater part of the emigration has been of labourers, not of "occupiers." The labourer class has been vastly reduced in number in those years, the "occupiers" comparatively little. Altogether, I am satisfied that at present the statement in the text is substantially correct. I have not full statistics, but I take from "Modern Ireland by an Ulsterman" the following somewhat surprising statement of the relative number of farmers and agricultural labourers in Ulster—farmers, 176,663: ploughmen, 15,236.

absolutely inconsistent with the enjoyment of a considerable degree of material prosperity. It is not proposed, as is sometimes asserted, to make a law to create small holdings. But in a country in which small holdings are an indigenous and existing institution, it cannot be assumed that it is necessary to put an end to them in the interest of the trading and manufacturing classes of the country. Those classes, like other Irishmen, are almost unanimous in opinions favourable to the tenant-right view. And in truth very many of them are directly interested on that side. An Irishman always gravitates towards the land. A large proportion of the petty artizans and tradesmen hold small farms or patches of ground with their houses; and wherever there is a well-established Tenant-right the constant tendency of those who make money by other trades is to put their savings in the land. It seems to me that we may put the non-agriculturists on one side, as not directly parties to the case except as members of the general public, and that, as members of the public, all the weight of their opinions and wishes is on the side of the tenants.

Lord Hartington's suggestion about particularly consulting the interests of the labourers echoes a favourite landlord argument which I have often heard. I have always remembered the saying of an old Sanscrit author, to the following effect. He says "A raja is the natural enemy of his next neighbour because there is constant clashing of interests between

them; he is the natural friend of the next but one, because he is the enemy of his enemy; all the rest are indifferent to him." So a despotic ruler when at strife with his nobles, generally conciliates the commonalty, and the Irish landlords, being pressed by the farmers, have an uncommon concern for the labourers, and think that these are the people most to be considered. Let us see how far this view is well founded. I may begin with that which would seem almost to render farther argument unnecessary, viz., that the universal outcry in the agricultural districts of Ireland is that there *are* no labourers. They have almost all emigrated Those who remain are masters of the situation. There are three or four farmers running after one labourer. It is a common complaint in many countries that farmers are hard masters to labourers, but in Ireland at present it is not in their power to make hard terms. The grievance of the labourers is that they want houses and are driven from the land. It may possibly be said in their behalf that the confirmation of existing claims to the land would be in some sense unfavourable to landless persons,—that it would make land dear to acquire for those wishing to become farmers, although they would have much better security when they get it. In truth, however, the labourers do not raise this cry—they would be much more likely to get the cabin and potato ground, which they want, under the farmers (if the farmers

were allowed to give it them) than under the landlords; and the landlords are the last people who are entitled to raise this cry for them. It is the landlords who are so strongly against turning the labourers into farmers, and who on the contrary are so anxious to turn the farmers into labourers. And it is the landlords who have driven the labourers from the land, in their excessive dread of over population and poor rates. Wherever you go in Ireland, the most constant practical grievance of the present day is the excessive strictness of the very best landlords in preventing the erection or restoration of labourers' dwellings on the farmers' land, or even the reception of any one into the houses of the farmers. In England this clearing of the land has been denounced. In Ireland it is still considered a virtue in the opinion of the upper classes. But I have been assured by several of the best agents of good landlords that in their opinion the system has been carried too far. Most of the labourers have left the country altogether—those who have not are driven into the towns. And so far from promoting the gradual formation of a farmer and labourer system, it is now notorious in Ireland that labourers are so difficult to be got, so dear, and so independent, that it is impossible to cultivate profitably with hired labour, and the farmers more and more depend on their own families alone. Rich model landlords build a few model labourers' cottages near their own residences, but the country generally is closed to

the labourer.* While then I believe that much may and should be done for the labourers both in Ireland and in England, I do not think that the Irish labourers are directly parties to the question of the respective rights of landlords and farmers. It seems to me that the issue may be taken to be simply between those two classes, with this most important interest of the British public in general, and the Irish public in particular, that social peace and security should be restored. We may well seek to be relieved of the taxes and sacrifices now imposed on us in order to maintain legal rights opposed to the ideas of right held by the Irish people. To this it is due that we are obliged to do for the Irish, with British money, so many things that we do not do for our own people. We police them, and educate them, and give them this and give them that, while we are obliged to do all these things for ourselves by local rates. Yet they are not satisfied. We give them everything except what they most want.

As respects the universality of the feeling in Ireland that there must be a very large measure of concession to the farmers, it is impossible to testify

* Since I wrote this I have seen a notice of a labourers' meeting somewhere in County Cork. Prominent allusion was made to the Marquis of Hartington's speech, and I cannot say whether the meeting was genuine or got up by landlords as a counterpoise to the farmers' meetings. At any rate the conclusion of the labourers was exactly what I have suggested. They do not object to the rights of farmers, but wish to share them; they say what they want is to have houses and potato grounds at a fair rent.

too strongly. We have seen on this question leading Conservatives join hands with leading Liberals, and leading Protestants with leading Catholics. It is the same throughout the country. Rare as evictions now are, there seems to be always present to every Irishman's mind the image of the typical case:—A peasant farmer who has built his house, improved the land, begotten children, and is then turned out on the roadside at the arbitrary will of a landlord. However moderate or even indifferent a man may have seemed in his views and conversation, the moment one approaches the subject of the power to evict, he fires up, graphically portrays this case, protests against the monstrous injustice of it, and insists that the landlords should not have such a power. These people may be right or they may be wrong, but the tenant-right view of the land question is in the very nature and constitution of an Irishman, just as a Hindoo, or a Chinaman, or a Red Indian, have their peculiar ideas of the fitness of things which do not seem fit to an Englishman. Putting aside those engaged as partizans on the landlords' side, one finds that on this subject the Doctor has just the same opinion as the Priest or the Minister, the Tradesman as the Farmer, the Policeman as the Carman, the town labourer as the agricultural labourer. The very landlord's agent, who has been giving you all the landlord side of the question, when you come to the subject of evictions, breaks away and becomes an Irishman. Indeed,

most local agents, like Indian collectors, come to have at bottom much sympathy for the people with whom they are so continually in contact. The landlords themselves meet you, not by asserting their right to do what they will with their own, but by saying that they never do evict without satisfying the tenant. In short, I find that whatever a man may be, landlord or no landlord, if he is only an Irishman, there is no difficulty in fairly discussing the question with him. It is not in him to scout the tenant's claim as utterly monstrous and unreasonable. That phase of the argument you only meet among Englishmen, who keep eternally repeating "the rights of property," "the necessity of introducing British capital," "there is no reason why Ireland should be treated differently from England;" and can't be got much beyond these phrases.

I have spoken of the priests as holding the same opinions on the land question as other Irishmen, and in Catholic parts of the country, where (the aristocracy being alien and absent) they are put at the head of social movements, they have been placed in prominent situations at many meetings; but so far as I can judge, it seems to me that in this matter the priests rather follow than lead the people. They are not personally much concerned in the land question, and one is rather struck with a certain comparative lukewarmness of many of them on the subject. I should say that, except as the exponents of the popular feeling, they

are as a body less zealous than those more immediately interested in the question.

It is, perhaps, not wholly unnecessary to warn Englishmen against any attempt to represent the land question as one in which Catholic is ranged against Protestant, for among other appeals to English prejudices there has lately been put prominently forward and widely circulated in a quasi-authentic form what is called the Riband Oath, that is, the oath by which the conspirators who commit the agrarian murders, in order (as it is said) to drive the landlords from the soil and appropriate the lands for the tenants, are supposed to bind themselves. This form of oath professes to bind all Ribandmen "to owe no allegiance to any Protestant or heretic sovereign;" "to disregard any oath delivered to me by them or their subjects;" "to hunt, pursue, shoot, and destroy all Protestant or heretic landlords, proprietors, or employers;" and "to aid as I best can in burning down, sacking, and destroying all Protestant or heretic churches or places of worship, and to level the same to the ground;" with much more of the same sort of thing. Many zealous Protestants seem to think the internal evidence quite sufficient to prove the authenticity of such a paper, but the only extrinsic evidence vouchsafed is that "some short time ago a party of the Irish Constabulary made a raid upon a public-house and found it." For anything I know to the contrary, some such foolish document may have been found in

some public-house, but that, if found, it represents the views of any one but the writer I wholly disbelieve. It can hardly be Fenian, the Fenians are not supposed to care much for any religion; and as to its being Riband, I confidently assert that no one who has the most superficial acquaintance with Ireland can for one moment believe in the truth of the statement. Who does not know that there are scores of protestant and heretic landlords, who, respecting the customs of the country and the feelings of the people, and neither evicting nor oppressing the poor tenantry, can and do live in Ireland in greater security than in their houses in London. It is so even in the most disturbed parts of the country. I do not remember a single case in which it has been even hinted that religion had anything to do with any of the recent assassinations. So far from the Riband societies being anti-protestant associations, I believe it may be broadly stated that they are the direct descendants of the "hearts of steel" and other similar associations of a bygone age, which were originally almost purely protestant, and which secured to the protestants the tenant-right of the North by means not altogether unlike those adopted by the modern Ribandmen for a similar object. Most of the Ribandmen are now catholics only because the protestants have already secured the advantages sought by the Riband code, as it is defined by Mr. Trench and others. The objects of that code are purely agrarian, and land-

lords are treated as they act well or ill in an agrarian point of view, whatever be their religion.

To return then to the agrarian question. I have said that all classes think that justice requires a great measure in favour of the tenants, except the landlord interest. Of these latter, again, many are very reasonable, and I think that by far the greater number, while they say that they had rather that things had been let alone and that it had been left to public opinion to induce landlords to do justice, fully admit that as things now stand something large *must* be and *will* be done. It can scarcely be said that so far there is a division of Irish opinion. Those who least like it have accepted the situation.

The attitude of the farmers themselves has been very quiet and moderate, although their feeling is deep. Farmers are a slow unexcitable race all over the world, and the Irish farmers have been long led to disbelieve in the possibility of getting what they consider to be justice from a British Parliament. Of late, however, it has been (as the thing was expressed to me) "humming about" that something was really to be done, and the agricultural mind was rousing itself to insist upon its claims when the agitation commenced. That it will now insist very strongly I have no doubt: but I am also more and more convinced that if reasonable claims were once conceded the farmers would be a most conservative class, utterly opposed to revolution, a support of our empire and our institutions. I

see no evidence to justify the suggestion that the more they get the more they will demand—that to do them justice would induce them to throw away all in pursuit of injustice. Their very quietness and moderation is made a sort of reproach to them, as the attitude of men wickedly and doggedly determined on spoliation. There is great talk of wild and subversive schemes, apparently aimed rather at what it was expected that they might demand than at what they actually have demanded.

Their proposal of fixity of tenure, subject to a fair rent to be raised from time to time (taken as being a first bid on their side, and subject to many qualifications and attenuations, some of which their leaders have already suggested), seems to me a moderate beginning to the discussion; and I do not see how it can fairly be said that they have not propounded a plan. It might rather be retorted that the other side have not suggested any practical plan for doing that "something" which all admit must be done. After all, even if the first bid of the tenants—fixity of tenure, subject to the qualifications which all reasonable men would allow—were conceded to the whole great class of tenants who have in their own way sunk their labour and money in the soil, it would be scarcely more than they practically have at this moment; no more than enforcing what all tolerable landlords now protest that they in practice concede—no more than is now enjoyed under a custom as strong as law in Ulster, and in many

estates in other parts of Ireland. At any rate, be they reasonable or unreasonable, the farmers have the present law and the power of the British empire against them—they must take what they can get. If that which is conceded to them turns out to be a practical remedy to the grievances of which they complain, I have no doubt that they will accept it and settle down, whether it comes in the form in which they now demand it or in any other. I venture then to think that it is not nearly so necessary to preach moderation to the Irish farmers, as to preach it to noble lords and others who take the high English-landlord standpoint. It is they who by refusing adequate compromise, appealing to English prejudice, and resorting to party warfare, may render legislation impossible, may embitter and prolong the controversy, may sacrifice their own real interests, and may possibly deluge the country in blood.

The question is not now a party question, but it may easily be made one. Probably there are at least as many Conservatives as Liberals among those Irish landlords who have fully acknowledged tenant-right. But if the whole of one party were to go against any measure proposed by the other, there are not wanting signs that there are many of the present Liberal party who would not follow their leader in a very large measure of concession to the Irish tenants. It is in England not in Ireland that the real practical difficulty of settling the question lies. Perhaps no class would have been more opposed to conceding

an Irish form of tenure than the old style of Whig political economist; such a man, for instance, as Lord Monteagle, as he is reported by Mr. Senior. We have quite enough prejudice without stirring it up, and efforts to rouse to the defence of property people who are already only too much alive to the extremest pretensions of property, are, I think, extremely regrettable.

In brief then, the question really is not what the tenants will take, but what the landlords will concede. If they will yield to a certain extent in a spirit of honest compromise, I believe that a solution may be found. If they hold out, it may be very far to seek. In this view it seems to me that by far the most hopeful sign of the times is the coming forward of several great Irish landlords to testify that a large measure of tenant-right is, under the circumstances of Ireland, beneficial alike to landlords and people. Such men as Lord Erne, Lord Granard, Lord Portsmouth, and others, tell us in effect that the result of a tenant-right system, such as that which prevails in the North of Ireland, and whether it is applied in the North or in the South, is to give a contented peasantry, improved lands, good homesteads, increased rents, and landlords holding, without expense and without discomfort, a position of much greater legitimate influence than do those who are in a state of antagonism with their tenants. In fact, there is very little difference between the views of these men and the "wild and subversive schemes" of the Farmers. The whole matter is contained in the

proposal to extend the indigenous institution best known as the Ulster tenant-right, to all parts of Ireland. There has been accession after accession to the list of tenant-right landlords. On the other side we have many who cry out about the sacredness of property, a good many who argue in favour of the patriarchal despotism of a good landlord, but so far as I have seen, not one who has come forward with any definite counter-scheme* for settling the matter, or attempted to show that any other than the tenant-right system has been practically successful in Ireland. It is only "you shall not touch the property of the landlords as by law established."

Compare with the facts and opinions stated by Lord Portsmouth, the speech recently made by another noble lord, Lord Carnarvon I mean. He represents the present agitation as an attempt to "make small holdings by law," and after stating that the Germans are driven out of their own country by the subdivision of the land,† adds, "certainly that is not a state to which we would

* There is much general talk of compensation for improvements, but till we know exactly how compensation is to be given, it is impossible to say whether it is a real concession or a nominal boon without substance, as all previous compensation schemes have turned out to be.

† I should have thought that if any one thing on this subject were universally admitted, it was that, for good or bad, a small-culture country carries a larger agricultural population than one in which it has given place to large culture.

reduce the farmers of England," and then goes on thus—"Lastly, remember that whatever principle is applied in Ireland to land, is the principle also applicable to every form of property you please, whether invested in the funds, or the stocks, in the railways, or in the savings banks." I do not see why we should not do a thing in Ireland under one social state, which we would not do in England under another social state, or why principles applied to land should necessarily be applied to other forms of property. No man can reasonably apply the Irish principle of fixity of tenure to property in the funds, or in stocks, or in railways, or in savings banks. I again say that such appeals to prejudice are very much to be regretted.

My belief is that we should put aside altogether the bugbear of the dreadful things which may happen to England if the Irish are satisfied in their own way—that the question should be considered as an Irish question, regarding only the principles of right and justice, as applicable to the state of things existing in Ireland. If this were done, and the feelings and wishes of the different classes in Ireland were mainly consulted, (our own interest being limited to our direct interests as tax-payers and fellow subjects under the same rule—weakened as Ireland is dissatisfied, strengthened as she is satisfied,) then I think a settlement might be arrived at. It would, I believe, be found that half the Irish landlords would be, if

left alone, perfectly ready to accept an arrangement which may satisfy the tenants without materially injuring them—that most of the remainder are not intolerably unreasonable, excepting only those who are either embittered partizans, or men who have become more English than Irish; and that thus the dissentients from a reasonable compromise would be reduced to a small minority. If, however, English prejudice is imported into the matter no man can say where the end will be, and we may look to have the way blocked by this Irish question to all the reforms we most want, even if much more serious results do not ensue.

THE VARIETIES OF TENURE AND MANAGEMENT.

I believe it cannot be said that there is any considerable portion of Ireland, not even that lying immediately round Dublin, in which the British land system has been completely introduced, that is, in which the landlord supplies the buildings, &c. necessary for the cultivation of the land, and lets the land on pure contract principles; but to some extent the system has no doubt been followed near the capital, and since the famine it has been partially introduced in a good many estates in different parts of the country, though

to a much smaller extent than is sometimes asserted. It is impossible then to mark off, even in the simplest way, anything that might be called the proper contract country; but it may be said that there is a certain area made up of scattered portions, more common near Dublin, less common as we recede from that point, in which the land is held on that tenure.

In all the rest of Ireland, the tenant who builds his house, reclaims, fences, &c. &c., without law or special contract to secure him in the enjoyment of his property thus attached to the soil (and which an English-made law enables the landlord to appropriate), can only trust to custom, force, or honour, to protect him from eviction and the confiscation of his property. The uncertainty of these guarantees is his grand grievance. Roughly, the country may, I think, be divided into three zones, in one of which the tenant mainly relies on custom, in another on force, and in the last on the honour of his landlord and the influence of public opinion. Of course there are border lands in which one of these zones runs into the other, and owing to the partial prevalence of one or the other system, or of mixed phases of the matter, infinite varieties are produced; but allowing for these crosses, I think that the division which I have made will suffice to explain the general situation almost all over Ireland. The reliance on custom is in the greater part of Ulster and in some more limited tracts in

other provinces, where the tenants have succeeded in reducing the system to a definite and recognisable custom which the landlords could hardly resist; in short, the customary zone is that of the Ulster tenant-right or similar systems, in or out of Ulster. The second zone is that which I have described in my first part as the south, but which may more properly be called the centre,—that is, from Tipperary in the south, to the borders of Ulster in the north. This zone is somewhat in the stage in which the north may have been when the agrarian disturbances of the last century occurred there—that is, the custom is uncertain and imperfect, but is maintained by violence. At this crisis there is nothing for it but to speak plainly, and it is useless to blink what every one says, and landlords themselves openly avow, viz. that they are in these parts of Ireland restrained by violence from the exercise of their legal rights. God forbid that anything should be said which might seem to encourage assassination. I have no doubt whatever that the present frequency of these black crimes tends to embitter the question, and to disincline the English public to do justice to Ireland; and the chances are, that if the thing goes on, success will lead to over-confidence, blundering assassins will be detected and punished, and then there will be a reaction. But as regards the past, it is not the crimes, but the deep feeling of the people, shown by their palpable combination to

screen the criminals, which makes the situation so serious. Euphonize the matter as you will, there is no concealing that they have succeeded in bringing about a state of things in which no man dare evict a tenant.

There is another view of this part of the subject not without practical importance. No institution is better than a jury, when it is a jury of equals trying equals among a homogeneous people; but when there is an embittered division of race, religion, or party, I believe that no institution can be more inapt. In the present state of feeling in Ireland, it is probable that a jury fairly selected would give the prisoners in an agrarian case the benefit of every doubt and something more; in fact, even if some sort of evidence were forthcoming, convictions would be very difficult to obtain, as Sir John Davies tells us was the case in his time, till justice was done to the cultivators. There is no disguising the fact, that it has been one form of Protestant ascendancy to get over the difficulty about juries by packing them in the most barefaced manner. I believe it is generally admitted that this has been so. Mr. Trench evidently writes as no lawyer, but he seems to take it as quite a matter of course, that when an agrarian case was to be tried, the landlord class should flock in to offer their services as jurymen, and a capital jury should be obtained by employing them. In one case we are told that the judge charged

for an acquittal; eleven of the jury were for acquitting, but one man held out, morally certain they had the right criminal. He was tried again by a good jury and convicted. Only the other day a sheriff was dismissed for most grossly packing a jury, and the system, in the light of modern opinion, cannot be maintained. Doubtless the presence of a judge has secured us against any gross injustice at the hands of a jury hostile to the prisoner; although I well know that when a great pressure is put upon a strong police, in a class of cases of much political importance and which have brought great discredit on them, it is necessary to scrutinize their cases with extreme care. But if juries are now fairly chosen, great additional difficulty will occur in dealing with agrarian crime.* I may also observe that I think it has been a great mistake to make attempt at murder no longer capital, if we are to maintain capital punishment at all. Surely the assassin who misses by an inch, or only wounds, is just as criminal as he who makes a better shot. As it is, the Irish assassin may feel that if he makes a good shot and kills his man he is perfectly

* When I wrote this, Barrett was under trial for the attempt to murder Captain Lambert. The jury has since been discharged, unable to agree on a verdict. The prisoner's counsel vehemently denounced the panel as packed, but without success. I know not whether he had any reasonable pretext for the assertion, or only went on the old presumption that in such a case it probably would be packed.

safe; if he makes a bad shot and misses he cannot be hanged, and may await the chapter of accidents—say the day when a Hiberno-American fleet will carry him off in triumph.

The third zone,—to which I did not before sufficiently advert, but of which I have now seen a good deal—is the farther south and extreme west. Here also, although, as everywhere else, there are abundant traces of tenant-right, it has not been reduced to a regular system, and has been much shaken by the changes consequent on the famine; while at the same time (since it is said that the pure Celts do not shoot) the position of the tenant is not secured by systematic violence. Just at this moment public opinion seems so strong, that here also it may be said that actual evictions are scarcely practised; but the power of raising rents is freely used. In these parts of Ireland then, the feeling of practical property of the people in the soil is not so strong. It is claimed just as keenly, but the people feel that not only in law but also in fact they are more in the power of the landlords than elsewhere; that when a landlord chooses to assert the extreme landlord-right there is less to prevent its exercise. It is here, then, that the idea of leases as a cure for present evils has been most favourably received —in fact, it may be said that up to this time the cry for leases has been popular in this part of Ireland, and what I have before said regarding them must be so far

qualified. But still it is none the less the case that the Irish idea of a lease, to cover buildings and all that the tenant does, is something very different from a British farming lease, and must be practical fixity for the present generation. Thirty-one years and the life of the existing tenant is not thought sufficient; nothing less than sixty-one years suffices. The want of the same degree of security which is practically enjoyed in other parts of Ireland, together with the more intimate connexion with America, make the people of the south perhaps more discontented than any others. At the present moment there is hardly a workhouse in the south-west which is not garrisoned by a detachment of regular troops, and gun-boats are at anchor in the bays. Though quiet enough, the country is still in a state of semi-siege.

In the north-west it seems that a good deal of the best land has been cleared for sheep farms, the aborigines being driven to the edges of the mountains and bogs. In the south, large sheep-farming has not been introduced, but much of the country is very poor and mountainous. When the small and miserable farms of the south and west are instanced as showing the wretched character of Irish farming, it must be remembered that they principally exist in a country where a better form of tillage, or cattle farming on a large scale, would really not be possible. Indeed, all over Ireland it may be noticed, that the

best land is generally occupied by the larger farms, while above and below, along the edge of the mountains and the edge of the bogs, one can plainly trace the lines of small thatched farm-houses, where the most petty farms have been reclaimed from the bog and hill-side by the labour of the poorest people. If we reproach them with the smallness and poorness of their farms, we must bear in mind that but for them there would have been no cultivated land there at all. My Scotch prejudices were not in favour of the Irish character, and on the strength of what was told me I have said a good deal depreciatory, though not condemnatory, of the southern Irish. I must say, however, that the more one sees of them the more one likes them. Whether they are really pure Celts I cannot say. If darkish hair predominates, it is very far from universal; and blue eyes are in an overwhelming majority, as I ascertained by running my eye round the rural schools in the "next parishes to America." But be the race what it may, they are a pleasant, intelligent, and in the main industrious people. No man, however determined may be his opinion in favour of large farms, and however conclusively he may prove by the rules of political economy that it is impossible for any man to keep out of the poorhouse on such farms as the poorer Irish hold, can get over the fact that hundreds of these small farmers live happily and contentedly, if they are

only let alone; rear plump and healthy children, pay their way, pay their rent, keep out of the poor-house, and are altogether most independent men, who regard the cabin which they have built and the bit of land which they have reclaimed with as much pride and affection as any noble who looks on his broad acres from his ancestral castle. It is necessary to see and realize these tenures, and then say whether it is not enough that a great lord, who has done little or nothing to the land, should live in his luxury on the rents wrung from thousands of these small tenants: whether he should also be entitled to use the power of the British Empire to clear them off the soil which they cumber, if it so pleases him. It is true that their cabins are to our ideas degrading in the extreme. The pig is still habitually introduced. There is filth and smoke within and a dungheap without. But nevertheless it is the fact that they are not only to all appearance happy, but are most distinctly healthy. They are singularly free from the fever which, according to all sanitary laws, ought to kill them. The abundance of a healthy and prolific population sufficiently proves the success of the system under which they breed human beings. We may call them savages—perhaps justly—but they send their children to school and pay for their schooling. These children can be savages no longer. And no one can see the rows of healthy happy children who flock to school, decently dressed,

without feeling that the system which produces them is not in all respects irretrievably bad. I cannot say that I carried my enthusiasm so far as to wish to live an Arcadian life in company with the pig in an Irish cabin, but I did come to look on the absence of shoes and stockings as rather an advantage; and I thought that, if in these days men were as completely masters of their houses as they ought to be, I should like to take the shoes and stockings off my children and send them to a national school.

I have put in a sort of plea for the very small farmers of the hilly districts, but it must be understood that after all they are exceptional. The greater part of Ireland is occupied by farmers of a better class, better housed and living better. And it is their case, not only that of the very poorest, that must now be decided.

I have repeatedly spoken of tenant-right as prevailing more or less in almost all parts of Ireland. In England, where the customary right recognised by the courts is merely the right of the outgoing tenant to be paid for certain rapidly exhaustible things put into the soil, the value of these things is easily calculated, and the tenant-right takes the form of simple compensation for value received and duly estimated. In Ireland, on the contrary, where the tenant-right is founded on old possession, reclamation, building, and other permanent improvements, such an estimate is in most cases impossible,

and tenant-right invariably takes the shape of a right to hold, at least till the tenant is paid for his rights, according to the custom of the locality. The Ulster form of tenant-right is the only form of the thing which is indigenous to and grows on Irish soil. I have already tried to explain its character. It is in examining this Ulster tenant-right, that one understands, what I have before stated, how nearly fixity and compensation run into one another. It is impossible to say whether the fixity, or the compensation in Irish form, is the essence of the system. Before the Devon Commission, an extensive land-agent first described it as "the claim of the tenant and his heirs to continue in undisturbed possession of the farm as long as the rent is paid;" and again says, "In case of an ejectment, or in the event of a change of occupancy, whether at the wish of the landlord or tenant, it is the sum of money which the new occupier must pay to the old one for the peaceable enjoyment of his holding." It may be said to be a qualified fixity—that is, a fixity subject to a power of the landlord to buy out under certain circumstances for reasonable cause, but not otherwise—and a right to compensation in the event of voluntary or involuntary surrender, taken at the value of the occupation and improvements to the farmer, and not of the improvements only to the landlord. This farmer-value is estimated in the only way in which it can be estimated —it is the price which the farm, subject to a fair

rent (excluding the improvements) will fetch in the market.

I have already mentioned the rights reserved to the landlord, and which give him much power and influence —the veto on a new tenant and power to purchase preferentially himself—the right to prevent subdivision and sub-letting—the right reasonably to raise the rent. It may also be assumed that if the landlord has once bought up the tenant-right, built the necessary farm-houses, &c., and let on the British system, no claim of tenant-right could again reasonably arise against him.

If we admit the theoretical right of the landlord to buy out, on paying the value, it comes always to this, that the price and the odium of eviction are together too much for him, and there is for the most part practical fixity, except in the rare cases of men setting the customs and feeling of the country wholly at defiance.

It has been said that the Ulster tenant-right is no right, because the landlord can raise the rent as he pleases. This is certainly not the case. I have admitted that it is very difficult to explain under what circumstances the rent can be raised, but it is clear that it cannot be raised beyond a valuation-rent fixed with reference to existing standards, exclusive of improvements, and that when such a revision takes place on the occasion of a change of tenancy (as is common) it must not destroy the tenant-right. The northern rebellions of the last century seem to have been caused,

not by attempts to evict, but by the attempt to raise the rents to a point which the tenants resisted. The Devon Commissioners were told by one agent, that if in any shape "systematic attempts were made amongst the proprietors of Ulster to invade tenant-right, I do not believe there is force at the disposal of the Horse Guards sufficient to keep the peace of the province;" and by another, "You would have a Tipperary in Down if you attempted it." Isolated attempts to interfere with it had always, it was said, been met by agrarian outrages. It has lately been stated that twenty millions sterling is about the sum now invested in this tenant-right form of property in Ulster, and it may be supposed that such investments must have some practical security. Still, it is an abominable state of things when any wrong-headed man might throw a country into a rebellion by ignoring rights which the law has strangely ignored. The reliance on non-legalized custom is quite inconsistent with the conditions which the Encumbered Estates Court has introduced, when the right of attempting to confiscate so much property is actually put up to auction every day.

It has also been asserted in recent discussions, that the Ulster right is being gradually eaten into and encroached upon by the landlords; in fact, that it is wasting away. I understand that this is not the case. Some of the alleged grievances are cases which are disputed under the customary code; and if some land-

lords by pressure may diminish the extent of the right in some quarters, it has a constant tendency to grow wherever there is no pressure. Still it is not to be denied that some landlords educated to English ideas now regard the custom with dislike. That makes it the more necessary that the question should be settled by law.

I have before explained in what sense I say that tenant-right is common over Ireland—that is, it is commonly necessary according to the practice of the country to buy out a tenant before he is dispossessed. I adhere to this statement. Many deny that there is tenant-right beyond Ulster; but the assertion, when analysed, generally comes to this—that there is not the Ulster tenant-right nor any definite well established custom in the quasi-legal sense. On many estates and in particular parts of the country, the custom is almost as well established as in Ulster; in others, it is only as it were inchoate and rudimentary. But this I maintain, that wherever we have any traces of it, the practice takes the Ulster form. It may differ from the Ulster tenant-right as the sapling differs from the full-grown oak, but it is still of the same species. It rarely takes the English form of actual estimate of property left on the soil, but almost always that of a near approach to fixity, and of compensation in case of surrender, paid in a lump sum for what the farmer loses—so many years' rent, or so much an acre.

Although evictions are so rare, it has been very common in the south to harass the tenants with constant notices to quit, which it is not seriously intended to execute, but which are used as a sort of constant threat hanging over them, placing them in the landlord's power. I have heard of one estate in which it is actually the practice to write a notice to quit on the back of every receipt for rent. There is also sometimes kept up what is called a hanging year; that is, an old irrecoverable arrear, probably of the famine time, which is not called up unless the tenant offends, but is carried on to the current year, the receipt for each year being given as for a year back, and so on from year to year.

There seems to be on many estates a constant struggle between a growing tenant-right, and a desire of the landlord to get the whip-hand of the tenants, and to exercise complete control over them, without directly flying in the face of popular opinion by actually evicting them. The control is sometimes intended for their good, but there is little disposition to part with it even by substituting contract.

Far be it from me to suggest that it is the general practice of all or most landlords to seek means of oppressing their tenants. I have spoken of some stretches of authority which are not uncommon. I now turn to the more agreeable task of explaining the management of good landlords. There are various

modes of good, or what is considered good, management, but they may be principally reduced to two general forms—one, which works by and through the indigenous tenant-right system; the other, which works—I will not say against it, for he must be a very bad landlord who tries to trample it under foot—but by trying to buy it up and substitute another system. It is very singular, however, that while we have had the succession of landlords who come forward to testify in favour of the Irish tenant-right, and say that it not only satisfies the people but works beneficially for the landlord, I have not seen that a single individual has come forward to show that any other system has succeeded even in promoting the interests of the landlord. I have much inquired in order to find such a case, but without success.

To those who argue that the Irish system *must* be bad, that the tenants *must* be impoverished, that they can't improve, that they can't cultivate decently, and so on, I would say, visit some of the properties in which tenant-right is most fully established—say in the counties of Down and Antrim—and see if you do not find a comfortable and thriving peasantry, many good houses, and every sign of prosperity. If it be said, "Oh! that is due to the manufacturing wealth of the North," then I would say, try any estate in other parts where the same system has been well established. Take Lord Portsmouth's, in the county of Wexford,

where there are no manufactures of any sort, no source of wealth but the soil; and see if exactly the same result has not followed. The landlords who have tried the system without prejudice seem to find it answer. Lord Erne says, "I do not think we want any change from the tenant-right system which I have long since adopted." He and his farmers mutually detail its advantages. Lord Granard proposes to give the custom the force of law, and extend it to the whole of Ireland. Lord Portsmouth has adopted it, and declares the result to be "well-cultivated lands with first-rate homesteads—increased rental, punctually paid—a loyal and contented population." The landlord is not on such estates reduced to the mere holder of a rent-charge. He exercises much substantial power. He may be if he likes a constitutional king reigning over willing subjects.* The complaint in the north is that at present he has only too complete influence over his tenants, and uses it for political purposes. After all, what does the commercial system tend to? What is the real power of a Scotch landlord who has let his

* When I have quoted the best agents in favour of the tenant-right system, I have sometimes been told, "Oh, the agents all like it; it saves them trouble." Now if a landlord manages his estate himself, will it be a disadvantage that he is saved trouble and many discomforts? Those who think otherwise must have very little idea of the character of an Irish estate, or an extraordinary appetite for difficult and harassing work. I have heard it put as a reason

estate for nineteen years to the highest bidders in six or eight large farms? The farmers are very independent of him, and may even set up a candidate for Parliament in opposition to him, as was done in East Lothian and Perthshire.

Putting the North aside altogether, I think that a visit to Lord Portsmouth's estate would convince any man that the system can be most successfully carried out in other parts of Ireland. The *Times* correspondent has testified to the results which Lord Portsmouth has stated. I too went over the estate. It must be understood, that the leases to which his lordship alludes in his letter to the *Times* are not in substitution for, but in addition to, the tenant-right. That right is as fully and completely established as in Ulster, and is so far more systematised that it is distinctly understood that the rents will be fixed from time to time by valuation, excepting from the valuation the tenant's improvements. The leases for thirty-one years are an assurance that the rent will not be raised for that term. At the end of the lease there is the assurance (so far as in the absence of law there can be assurance by the existing land-

why it is almost impossible for a great landlord to reside in Ireland, that he would be so harassed by the affairs and the petitions and the grievances of a multitude of small tenants, that his life would be a burden to him. Depend on it, that if he is relieved of a good deal of such trouble, he may still, in the condition of Irish society, have abundant occupation in administering a large property and deciding the many things referred to him by his people.

lord) that it will be renewed on valuation. As one of the tenants said to me—"I was told by a Scotch farmer that I was mad to put my money on another man's land; but you see I am building actively although my lease is within two or three years of expiry, because I know that this will not affect the valuation."

The most tempting part of the arrangement, in the eyes of English and Scotch landlords, is that Lord Portsmouth does not expend a farthing in building, repairing, or anything of the kind, and I am inclined to believe that in the condition which the estate has now attained he is right. As one of the tenants said—"I can understand the landlord supplying the houses and charging for them in the rent; and I understand and like our system under which the tenant houses himself and is not charged for his house; but when it is done partly by one and partly by the other, you can't say whose the house is." As it is, the tenants on this estate have housed themselves in the most comfortable manner, and seem to want for nothing. They are of all degrees and conditions—holders of farms of every size, from 5 to 100 or 150 acres. Farms are not allowed to be subdivided below 25 acres, but the existing smaller farms (and they are many) are respected. The small farmers seemed to me to be, in proportion, just as comfortably housed and prosperous as the large ones. There are a good many Protestants in that part of the country, but

quite as many Catholics. One of the very largest farmers, when I asked him, admitted that his predecessors had been "on the side of the people" in '98. The popularity of the landlord and the legitimate influence which he might exercise, are unbounded. There has been a good deal of correspondence about this estate, and Lord Courtown has repeatedly criticised Lord Portsmouth's letters as regards the motives of other landlords, and matters into which I need not enter; but I cannot find that he has said one word to detract from Lord Portsmouth's statements regarding the success of the system in a material point of view; on the contrary, he seems fully to admit so much. The only suggestion on this point which I can find is, that success requires not only a good landlord and a good system but also good tenants, the inference being that Lord Portsmouth is fortunate in his tenants. Perhaps this is something like the compliment paid by the country juryman to Sir James Scarlett when he said, "No wonder he always gains his cases, he always manages to be on the right side." It may be that a good system makes good tenants. As to Lord Portsmouth's non-residence, if, as Lord Courtown says, his more constant residence would be an advantage, it is all the more a proof of the excellence of the system that it has worked so well without that advantage.

As an instance of the way in which a still smaller

tenantry in a poorer part of the country may be satisfied in a somewhat different form, without loss to the landlord or injury to any one, I would instance the estate of the Rev. Mr. Townsend (an English clergyman) in the extreme west of Cork. Mr. Townsend gives leases for sixty-one years on the following conditions:—The tenants submit to a small present increase of rent; pay, I understand, a year's rent as a fine, and pay the expenses of drawing and registering the leases. Their tenure is, for the term of the lease, (what may come after that, who can tell?) very much on the same footing as that of Ulster tenants, but free from farther increase of rent, and secured by legal covenants. They can sell their farms, but are restricted from subdividing or subletting them without permission. Royalties and other privileges are reserved to the landlord. All the tenants who have not already leases have joyfully accepted these terms, and Mr. Townsend is held up by the whole country-side as a model landlord. Mr. Marmion, the agent, tells me that whereas formerly he had great difficulty in preventing subdivision, &c., in all the cases where leases have been running for some time he has had no difficulty whatever, since the tenants respect their covenants, and valuing their tenure under them, will not run any risk of sacrificing it. Even these remote Celts do not regard "litera scripta" as mere verbiage. I talked to many of them as I passed along, a perfect stranger to them and quite un-

introduced, and found that the very smallest tenants quite understood and apprcciatcd the advantages they had acquired; or if they did not, their wives did.

Instances might be multiplied in which estates are well and profitably managed on tenant-right principles. I believe that on those in which Mr. Trench has succeeded best the tenant-right is admitted. I find that in almost every case in which things are known to go on successfully, when I put the question, "Do you admit tenant-right; that is, do you give practical fixity, and allow the tenant to sell his interests when he wishes to do so?" the answer is almost invariably in the affirmative.

I am aware that one may hear of estates of improving landlords following another system, which are said (by people at a distance) to be models of success; but when one comes to examine narrowly, the statement is very much qualified. The question is whether any one can show an estate profitably managed on any other than tenant-right principles. I have been unable to find one. I would put aside a few estates near Dublin which have been long ago reduced to English shape, where the landlord has good-sized farms free from tenants' buildings and tenants' rights, ready to his hand. Such estates may no doubt be as well managed on the English pattern in Ireland as in England. I am told that the Duke of Leinster's property is something on this pattern. But what I

mean is that I do not think an ordinary Irish estate can be shown which, from the normal Irish form of small tenancies, tenants' improvements, and a tenant-right system, is reduced to an English or other form to the profit of the landlord and contentment of the people. Possibly some of the large farms created by clearances after the famine may be profitable; it may be Irish prejudice which induces the almost universal assertion of the people that they have not paid. But the opportunity which the famine gave does not exist now. I have not cared to inquire minutely whether these enterprises pay, for the simple reason that they are no longer possible; the land cannot now be cleared as it in some places was after the famine.

The most conspicuous instance of the trial of the large farm system by a very competent man with abundant capital, not acting through agents but giving himself entirely to the undertaking, is the estate of Mr. Allan Pollock, which has been already described by the *Times* correspondent. I have discussed the matter with Mr. Pollock, and though I have not an opportunity of asking his permission to publish his remarks, I believe I shall state nothing which he would object to make public. He says then, that the *Times* correspondent is mistaken in supposing that his enterprise has not paid. He maintains that it has, and offered to let me have an opportunity of examining his books. A very competent Scotch agriculturist, a

member of the House of Commons, expressed his intention to avail himself of this offer. I did not, because I thought the point immaterial to the present question, for Mr. Pollock went on to say that he had a peculiarly favourable opportunity during the years subsequent to the famine, but that he would not dream of attempting the same thing again. It would now be totally impossible to get rid of the small tenants. Next, it is most distinctly the fact that Mr. Pollock has carried out his system, not by ignoring, but by recognising tenant-right, although he is far away from Ulster and the regular tenant-right country. He says that he has never dispossessed a single tenant except by buying him out by voluntary agreement. Consequently, Scotchman (and I presume Protestant) as he is, he lives in what I have called the zone of violence, among a friendly and contented people.

Another most important fact is to come, which has not before been brought out. By way of trying the two systems, Mr. Pollock has managed another large property, cultivated by several hundred tenants, on Irish principles, leaving them alone and admitting tenant-right. He gives them some little assistance, but in the main they do all the building and improvements for themselves. They have a practical assurance that they will not be evicted, and are allowed to sell their interests. Now though Mr. Pollock naturally prefers his East-Lothian system, he also most frankly and

fully admits that the other is marvellously successful also. The people pay their rents well, cultivate tolerably well, are in their way comfortable and contented, and are on the best terms with their landlord. He says in fact, that he finds he has complete influence over them, that they are ready to do anything for him, even preserve game for him, and oblige him in every way. Here then is another instance of the success of the tenant-right system.

I have not had an opportunity of seeing the estate, in the North, of Lord Dufferin who is so much opposed to tenant-right, and has tried to buy it up and establish the British mercantile system. The general belief of the people of the county (Down) is, that this does not pay, and I have heard it said that the custom of the country is so inveterate that even after he has done all this a fresh tenant-right is gradually springing up, in spite of the landlord. They say that a new tenant *will* pay something to the old one.

Putting aside, as not now practicable, the idea of clearing to make great farms, we have still the class of *improving* landlords who are held out as models—men of great wealth, who do not try to evict the tenants or rudely to override their tenant-right claims, but who set themselves against the continuance of the system, and accepting the duties along with the rights of landlords, expend large sums in farm-buildings and all those things which fall to the landlords to do in

England. Whenever I have inquired about an estate of this kind the first question I ask is, Does the system pay? and the answer I have always received from the persons actually engaged in the enterprise is, "*It does not.*" I next ask, Have you been able to extend your system to the whole estate? and the answer has always been that it has been impossible to do so: it would cost too much—the thing can only be done gradually. Thirdly I ask, Do the tenants to whom the new system has been applied really like it? The answer is doubtful. "Well, it is hoped they are coming or will come to like it. 'At present they don't quite understand their smart houses—use their sitting-rooms as barns, and think it a grievance that the pig is shut out." I am not sure that this last grievance is altogether unreasonable. The pig and the cow are scrupulously excluded from the house—stone wickets are erected to keep them out; but I have often found that no separate house has been provided for the cow and the pig, the money does not suffice to do so. In fact, the whole income of an estate might easily be spent in this way for generations, as Lord Derby tells us he has found by experience.

You may see the estates of most liberal landlords who have expended very large sums with no more result than this, that in the immediate neighbourhood of head-quarters and along the chief lines of roads the tenants have smart although bare-looking houses; but

up the glens and along the bogs they are just where they were. Take great estates in the South occupied by a mass of small tenants, such as Lord Lansdowne's or Lord Kenmare's. Building seems to be rather expensive in that country. A neat cottage, rain-proof, and with an exterior to do credit to the landlord, cannot be built on what is there thought a decent-sized farm (paying say 15*l.* rent) for much less than 100*l.* I have it on the authority of one of the best agents that a proper house and offices for such a farm cannot be erected by a landlord for less than 200*l.*, to say nothing of other improvements. The tenant cannot and will not pay for such an outlay, and the result is pecuniary loss.

But not to take these instances of remote estates and the smallest class of tenancies, let us take an estate within fifty miles of Dublin, one of the best managed in the country, that of a landlord reputed to be one of the most liberal "*improvers*" in Ireland, in fact, the very model of landlords. Lord Fitzwilliam no doubt deserves to the full the character which he enjoys for liberality and a desire to benefit his tenants. His system is as near an anti-tenant-right system as that of any just man can be, that is to say, he sets his face against it, and without any attempt to deprive the tenants of their invested property, he refuses to allow them to sell it to others. Whenever a man wishes to part with his farm, he is ready to compensate him in

the most liberal manner (taking the thing from the tenant's point of view), in fact, to give him as much as he could get from any one else, or more. Thus, existing rights are accepted, but for the future the tenants are not allowed to create new ones. The landlord undertakes to make all future improvements himself, as he ought to do if he claims absolute property. The lands are let very low, the only instance of which I have heard where they are below the public valuation (Lord Portsmouth's tenants are well content to pay some 25 per cent. above it,) but no leases are given. It is considered that, when there are no leases, the landlord has greater power to make the tenants improve. Although there are no actual evictions, a tenant who cultivates a large farm badly is "fitted with a smaller one," while a good small tenant is promoted to a larger one. Great care is taken to make them follow good systems of cropping and manuring, and so on. In short, the estate is the model of a paternal despotism.

It is admitted that the improvement is as yet only partial. In truth, if I had not heard so much of it that I think I must have been unfortunate in the routes which I took, I should have been tempted to say that it is little more than skin-deep. It seemed to me that as soon as one got two or three miles from the lord's demesne one saw whole lines and lines of small farms with thatched farmhouses in an entirely abori-

ginal state. And when one spoke to the tenants about the merits of the landlord there was a certain reserve. They could not but admit that he was a good landlord, a *very* good landlord, that he did no injustice to any man; the speaker generally had nothing to complain of. Still he *did* hear some people complain that they were not allowed to sell hay or turnips off the farm, or to do this or that. In short, they are worried by the paternal system of whipping them up to improve against their will, and the impression left on my mind was that they would have preferred a landlord who let them alone, even if he had exacted a good deal more rent.

The case of the "*improving*" as against the tenant-right landlords was thus summed up in reply to my questions, by a man of much experience in the improvement system: "No doubt, financially, Lord Portsmouth's plan is better for the landlord and more pleasing to the tenant, but it is worth the while of a liberal landlord to pay something for improvements. I admit that only a very rich and liberal man can afford to treat an estate in this way." In reply to this I can only say that, as a matter of fact, Lord Portsmouth's estate is far more improved than that of any improving landlord that I have been able to discover. I very much doubt whether forced improvement will ever be so good as willing improvement. I observe that whenever it is proposed to interfere with landlords, they are always ready to quote the laws

of political economy in favour of freedom of action, but if you suggest the application of the same principles to the tenants they don't see it at all. Tenants will not be guided by their own interests. In short, like most luxuries in England, political economy is for the rich, not for the poor. I believe that after all, if you give them time, and have some regard to the customs and habits which influence all people, the small tenants are ready enough to adopt improvements which pay, though they don't care for ornamental luxuries which do not pay. Here is an extract from the letter of a zealous and liberal Irish landlord who has spent his life and his substance in the attempt to improve his tenants:

"I threw myself with all the energy of a man of twenty-one into the work, and did much, but alas, much mischief! I found human nature cannot stand the temptation of having some one to take off the trouble and responsibility which every one must have of his very own if he is to be a man. Though in many cases I succeeded in getting tenants into better houses, and fields into better inclosures and better tillage, I was miserable from the conviction that very few were really better men, more self-confident, self-helping, more manly. And *all* these few were, as I afterwards perceived, *men who had cost me nothing*—who if they had borrowed had repaid, if they had become richer it was by my money which they had fully earned.

Advice and example was of use to these, and to these only. However, it is a bad wind that blows nobody good. If I cannot since that time lay out money among my tenants in the way I used, they know it, and they have *quite* ceased to lean on me for aid as they used. They ask me to spend something occasionally on their land or houses, but always proposing an equivalent rise in rent; but more generally they ask advice only, and do the work themselves."

It is impossible to imagine a stronger testimony to the advantage of the Irish system in Ireland. I must in fairness add that my friend's experience, instead of leading him to the conclusion which I should have expected, induces him to believe that it is better to leave the tenants alone to help themselves;* and not to attempt to assist them by legislation. But his testimony is all the more valuable as regards the facts.

My inquiry leads me to the firm conviction that, on a normal Irish estate, the landlord will do much better for all parties if he allows the tenants to build, conceding them tenant-right, than if he tries to do everything himself.

It is quite another matter as regards greater improvements—arterial drainages and things of that sort going beyond the limits of single farms. That is the proper function of the landlord, and there is no

* Tipperary tenants are only too ready to help themselves.

tenant-right or fixity-scheme which I have seen that would prevent the landlord from getting his profit for such improvements in the shape of increased rent, when the land has been made more profitable by the work of the landlord.

I admit it may still be argued that Lord Fitzwilliam's plan is more for the benefit of the human race, but looking to the vulgar interest of existing landlords, I cannot doubt that Lord Portsmouth's plan is the best. It is a very safe thing to say, but I am quite sure that in the impossible event of any one leaving me an Irish estate, I should not have the least hesitation in settling it on tenant-right principles, and that in so public a manner as to give the tenants legal right in the event of a breach of the customary conditions. At the same time no one proposes anything that would prevent a man like Lord Fitzwilliam from following out his own system if he likes, that is, fairly, buying up the rights of the tenants, and so introducing either a commercial relation of landlord and tenant, or a paternal despotism under which the tenants have no rights and are kept in leading-strings by the beneficent potentate who rules them.

The fact is, that in every country it is very up-hill work to struggle against established customs, habits, and ideas. You generally make much more progress if you can take advantage of the current than if you go against it.

Postscript.—Since writing the above, I have seen the *Times* correspondent's account of the results of Lord Bessborough's management, which is certainly throughout extremely *couleur de rose.* I am aware that Lord Bessborough's name stands among the highest of the half-dozen which are best known as those of the model landlords of the country, and I would by no means undervalue the immense good which may be done in Ireland by a man of special aptitude, wielding great power and great resources. Still, before admitting that a similar system has produced results very substantially different from those shown on Lord Fitzwilliam's estate (which, by the way, is managed by a Ponsonby), I should like to have much more minute particulars. In the first place, it is by no means clear, from the correspondent's letter, whether Lord Bessborough always himself builds the houses and offices, or whether he does not also sometimes assist the tenants to build them; and that makes all the difference between the one system and the other. Then, if he builds himself, on how many farms has this been actually carried out? and in how many is it not yet done? and (most particularly) does the system pay? The correspondent is almost silent on the latter point.

Even if all these queries were satisfactorily answered, I should still say (as I did with respect to Lord Fitzwilliam) that as Lord Bessborough respects the possession

and just claims of his tenants, he only does what any one else may fairly try; but he does what probably not one in a thousand will do with financial success.

EDUCATION AND EMIGRATION.

Although I think that every one who cares for British education should look well into the Irish system, I hardly propose to touch on it except as bearing on the land question, and certainly shall not attempt to solve the doubt whether it is or is not too much drifting into denominationalism. Briefly, the system may be described as one which puts the popular education under the management of the religious bodies predominant in each locality, with a strict conscience clause and Government inspection. In certain localities both Catholic and Protestant schools are supported, and some are really mixed, especially the superior district schools, model and agricultural schools, and the like. In the south of Ireland it may be said that, excepting a few Protestant schools, the whole national schools are under the management of the priests; and of all unreasonable things Cardinal Cullen's protest against the system seems the most unreasonable. I found that some of the priests and convent authorities openly avow their entire dissent from the episcopal view. The fact is, that the priests

control the schools in the character of managers under the National Board, and not under their bishops. The board prescribe the books to be used for secular education, and religion may only be taught at hours duly advertised in each school, so that Protestant children may go without offence; but as, in fact, in these Catholic parts of the country there generally are no Protestant children attending the schools, the Catholics have it pretty much their own way. The ultra-Catholic view is expressed to be that religion, and that the Catholic religion, should be intertwined in all education; that the children should be taught history, for instance, from a Catholic point of view—should be led to admire Queen Mary and execrate Queen Elizabeth, and so on. The Church of England party have equally, or even more, dissented from the National system from their point of view. However, be the rights of the different objections what they may, the main fact is this, that the people are educated; there is no doubt about that.

The questions about compulsion, and the difficulty of bringing children to school in the agricultural districts, have been solved in Ireland by their voluntary attendance. I saw a school which had been only two months established in a barren-looking, hilly, remote country, on the roadside, with no village, and scarcely any habitations to be seen, in which there were already nearly 250 children. The difficulty was to imagine

where they came from. The system is to allow them to attend or not as they like; they are not struck off for irregularity. Their parents pay small fees and make the most of their money. At seasons when the children are wanted for agricultural work, they are kept away, but if a rainy day occurs they come flocking to school. The cause of all this zeal is the same which promotes education in India—the money value of the learning which they get. In short, it is chiefly for emigration that these children are educated. They have learned that to make their way in the world education is essential. Every letter from America says "Educate, educate, educate;" and we are bringing up a vast number of young American citizens who are already raising the position of the Irish race in America far above its previous degraded condition. I understand that in the State of New York an extraordinary number of the civil officers of the Administration are Irishmen.

Although it may seem hard that we should pay to bring up the young Irish for America, while we have no such State-education for our own people, I would rather, in this matter, level up than level down. I am unable to see that in the matter of education there is any very substantial advantage in local rates, far less any justice in the system of helping the rich localities and leaving the poor without aid; and I should think that a national-paid system like that of

Ireland (the religious question apart), would be best and simplest. The only question is whether society may not be turned upside-down if the poor receive, as they do, a good and rational education, while the sons of the rich are still grinding away at the old learning of other ages, and not learning that.

To return to Ireland. The next question is, Are the educated young Irishmen grateful, and more loyal in consequence? The answer is decidedly in the negative. It has been said that you must not educate or elevate slaves, and so long as the Irish think that they are aggrieved, the more you educate them the more they incline to Fenianism and such courses. Some think that the system has in fact been so successful as to have outrun the machinery supplied; that the schoolmasters are above their pay, are dissatisfied, and Fenians in consequence. Others say that there is no want of a supply of qualified candidates for the money; but I believe that there is a good deal of truth in the former view. At any rate the result is that education is no cure for the social discords of Ireland, except in so far as it promotes emigration, if that be really a cure. It may make the rising generation better farmers, and lead them to appreciate better houses and cleaner living, but if they have not a better tenure, those who do not go to America will be more discontented than ever. Already one is told that the farmers are not Fenians, but many of their sons are.

The universality of the Irish connexion with America is something astonishing. In the course of my two tours I do not think I met with a family that had not some of its members in America. Education and other causes have secured this, that a man who has no ties to the soil, or no means of tolerable maintenance from it, emigrates. The excessive tendency to subdivision and over-population is thus almost entirely obviated. The younger sons and daughters of a family hive off. As long as there is a farm in the family one member no doubt remains upon his "property;" but if he breaks down and cannot pay his way, he sells and goes off to America, instead of becoming a burden to any one. Thus, without much diminishing the present number of holdings by any very rapid process, the way is still opened to a gradual consolidation of farms, and is shut to the farther subdivision of existing farms of small dimensions. When the population had no other resource, it was very difficult to prevent the subdivision; now it is quite easy to do so.

I do not doubt that emigration has been beneficial in relieving us of a population which the failure of the potato made it impossible for the soil to support, and that it is a good thing that we are thus enabled to prevent the re-subdivision of existing farms; but whether it is really a good thing farther to get rid of our population in order to substitute cattle and sheep is a

much wider question, admitting of grave doubts. After all, the great accumulation of wealth in our country gives greater temptation to an enemy if we have not men to utilise it and to defend it. There was a time when the Scotch Highlands were a great recruiting-ground; now we hardly get a man from thence. The English agricultural labourers are, I believe, daily diminishing in number; it is still quite open to doubt whether the town populations will sustain the national vigour if not recruited from the country. Already Ireland has in great degree ceased to furnish recruits to the army, the attractions of emigration are so much greater. Yet we must both defend England and keep India. If we should succeed in putting an end to the production of men in Ireland, should we be so strong as if we had a contented population there? Even in an economic point of view, it is hinted that there is some reaction in the Scotch Highlands; that the grass lands which succeeded to the tillage of the cottiers are going back to a state of unimproved nature; and that both in the Frazer and in the Sutherland country it is found necessary to return to tillage and to encourage population. If trade revives in England we shall again want men and women. There is much to be pondered over before we can be sure that to encourage the exodus of the Irish is the way to cure all evils.

SOME CONSIDERATIONS REGARDING SEVERAL VARIETIES OF TENURE.

I have not the least intention of plunging into the interminable discussion regarding grand and petite culture. The Irish question is really more social than economic, and it is enough for my purpose that I have assumed that small farms are consistent with social well-being, and not necessarily ruinous in an economic point of view. So much, I think that I may assert without contradiction. It happens that I spent most of the time between my visits to Ireland in Germany and France, and passed through Belgium, the season being that when the crops were heavy on the ground. Though I was abroad for other objects, and did not study the foreign land system, I naturally looked about me. It seemed to me palpable to the eye that in districts where small culture prevailed there was a larger gross produce than on an ordinary English or Scotch farm. I have no doubt that there was much less economy of labour, probably less skill; the *net* produce may have been less; but the farming was what we should call higher; there was a more universal use of liquid manure, and more unceasing industry. I wish some one would explain the system of the German Communes. The country about Wiesbaden and Homburg looked curiously like an improved India. The people live together in villages; the woods and wastes belong to the commune, the un-

fenced tillage lands to the individual members of the association, who cultivate them with cattle instead of horses. I gather that there is co-operation for village management, village roads, and common objects; and probably, as in an Indian village, the association of small farmers does much that a large capitalist does elsewhere. It seems natural enough to an Anglo-Indian that the produce of the woods and the waters should belong to the commune; but from a Scotch point of view it is difficult to understand why those enormous German hares should live so peaceably in the private wheatfields. Why are *all* the cattle in the ploughs and carts cows? and what becomes of the bullocks? I bought a German phrase-book in the hope of solving this latter mystery, but without success, and never felt so much in the position of a deaf and dumb man thirsting for information.*

Lord Stanley fairly puts it, that the tendency of large farms is to bring agriculture to a system of great food-manufactories, managed by capitalists and worked by great bodies of hired labourers, like other great manufactures; and if that is undoubtedly an advantage

* People view things with different eyes, and though I do not wish to introduce the actual merits of small culture into the present question, I cannot but say, that instead of seeing Germany as Lord Carnarvon saw it, so far as the sense of sight could carry me it seemed to me that the small German farmers contrasted not very unfavourably with English farmers, and favourably beyond all comparison with English agricultural labourers.

there is, so far, economic gain. But the more I see the more I am convinced that independent small farmers have, socially speaking, some considerable advantages over hired labourers. I cannot but again refer to the absence of pauperism among the small Irish farmers. The potato failure was one of those calamities which occur but rarely in the history of the world—not the failure of a single crop, but the almost complete abstraction of the staple article of food. It was as if not only one rice crop had failed in Bengal, but it had also suddenly become impossible to cultivate rice any longer. Now that the readjustment of population consequent on the potato failure has taken place, the Irish ryots are singularly independent. They are not to be seen in the workhouses of the poorest parts of the country. While both in England and Scotland the constant cry is of the increase of pauperism, it may be said that in Ireland the only recipients of relief are children and sick decrepit people. The workhouses are hospitals and orphanages, and barracks for the soldiers sent to keep down the Fenians; nothing more.

I think that there is something of insolence in the tone of remarks which one sometimes hears in regard to the abominable pride of the Irish small farmer and his family, who do not like to accept menial service at the beck and call of another. If there is anything in the equality of man, surely they may do as

they like, so long as they can keep their heads above water. I cannot but tolerate and even respect the feeling. Few Aryan countries have got over the old pagan institution of Caste, so peculiar to the race. In India it is the Bramin Caste that looks down on the Pariah Caste; in England it is the rich Caste that looks down on the poor Caste.

Well, perhaps this is somewhat beside the question, but I am coming to a point to which I would particularly wish to draw attention—viz., that when small culture is carried on under a proprietary system, or a semi-proprietary system such as that of the Ulster tenants, the tendency is to draw to the cultivation of the land a great deal of small capital which would not come to it in any other way. It is perfectly true that an enterprising Scotch farmer would much rather put his capital into a hired farm of 500 acres than into a proprietary farm of 50 acres. It is said, with some truth, that on his farming capital he can make ten per cent., while for money invested in purchase he can hardly get three per cent. By his labour, skill, capital, and risk all combined, he probably does make ten per cent. on his capital. That is the case in most mercantile transactions. But then it is a mercantile transaction: such profits involve risk—in nothing more than in farming. It is only a skilled enterprising and adventurous man who has devoted himself to the profession, who can prudently engage in it;

it is notorious that an amateur who attempts such farming almost invariably comes to grief.

But again, the passion for land is as vivid as ever in our race—as in all the races cognate to us. In England only the rich man can indulge it. In Ireland, wherever the tenant-right system prevails, the small man who has in any way made a little money seeks to do the same because he has the opportunity of doing so. Every man who has got a little money, whether he has inherited it or made it in Liverpool or Belfast, seeks to "buy a farm." Retired tradesmen "buy farms" to obtain a place where they can spend their old age under whatever in Ireland corresponds to their own vine and fig-tree. We have here the whole secret of the very high prices given for the tenant-right. A man who invests his money in a small farm in this way, does not risk his capital as does a large farmer who puts his whole capital in the cultivation only. His risk is on a much smaller scale. The standard of skill being less high, he has less difficulty in being equal to his neighbours, and more depends on personal supervision and the industry of himself and his family. Instead of risking his capital, he considers that he has securely invested it; and relying on the well-established custom, he thinks the risk of a dishonest landlord less than that of a swindling commercial magnate who promotes joint-stock companies. In fact, he has put his money where

he can find it at any moment when he wants it again. His tenant-right property gives him credit too, almost as much as if he had invested the money in a fee simple. And so it happens that notwithstanding the theoretical objection that the farmer who has spent his money on tenant-right can have none left to cultivate, in fact it is not really so. Abundant money is attracted to the soil, and the tenant-right farms are before our eyes, evidently by far the best cultivated of small farms in Ireland.

Nothing is more palpable in England than the extreme difficulty which is found by the middle classes in securely investing their savings—especially in investing them in any way by which an industrious sensible man, not possessed of a talent for competition or first-rate professional skill, can occupy himself without the risk of losing his all. The working classes again, having nothing to save for, generally do not save at all. The higher their wages the better they live, but a house and little farm is not before them as the prize to be struggled for, as it is before the eyes of a northern Irishman; the poor-rates take the place of such ideas as the eventual security of the Englishman. The way in which money has been obtained from thousands of small people for every joint-stock scheme, possible and impossible, is sufficient proof of the scarcity of good investments. Even in Ireland it appears that the difficulty is not money, but the means of investing money.

We are assured that many millions are lodged by the peasantry in the banks, but where there is no security for tenant-right the money does not flow freely back to the land, either for improvement, investment, or loan. I am told that in truth the mass of the savings of this "*miserable*" Irish peasantry is principally employed in the large farming of Scotland through one of the leading banks, and in London City speculations through another.

I do then really believe that what the Irish most want, for the simpler descriptions of agricultural enterprise, is not so much English capital as good security for their own capital. I am heretic enough to hint that, under certain very peculiar circumstances, there may be such things as virtue and happiness, and even a small degree of material prosperity, without an unlimited flow of English capital, kept together in large masses. Of this, at any rate, I feel sure, that if the Irish farmer could offer a good security and the country show a prospect of peace, there would be no want of money, English or Irish. The Irish money would probably suffice for ordinary farming purposes; the great English capital might, with much advantage, be applied to the larger enterprises which, by science and skill, may reclaim the morasses and render productive the great tracts now lost. Most great landlords have ample opportunity for enterprises of this latter kind.

Next I would suggest that there may be some points

of view in which, under present circumstances in Ireland, a secure tenant-right property has advantages over absolute property.

First, it is in accordance with the customs of the country, and seems more sought after by the people, besides being decidedly cheaper.

Secondly, there is this important consideration to justify the preference of the people, that the same difficulties (caused by our complicated law of real property), which prevent the creation of small properties in England, are almost equally operative in Ireland. A man cannot buy the fee simple of ten acres without subjecting himself to all the difficulties and complications attending our legal system. Wherever the customary system is well established he is perhaps right in preferring the security which it gives, and the cheapness and facility of purchase and sale which it affords, to the tender mercies of the law. Till the law of real property is simplified, the tenure of land made as simple as the tenure of stock, and the tyranny of lawyers put an end to, small properties must be very unprofitable investments. That reform is one more difficult and more remote than the Irish land question.

Finally, if you have small properties you cannot prevent subdivision, sub-leasing, and all the evils which are said to flow from such a state of things. They are partially remedied by complete facility of

transfer, but still there will always be some tendency to an eventual separation between the proprietory right and the cultivation, and you may really to some extent have, after a generation or two, a set of small inefficient landlords over a set of poor rack-rented tenants, a state of things which I quite believe to be injurious. On the other hand I am convinced that under a regulated tenant-right system it is perfectly practicable to prevent subdivision and subletting otherwise than with the consent of the landlord. If a family can't cultivate, and is not likely to cultivate, it would be very easy to say "Well, you must sell;" the capital would not be lost. If a son is growing up, or a daughter is fit to be married, a friendly and discreet landlord might permit a temporary letting till the son was of age, or the daughter married; for it would be part of the system that a reasonable discretionary power should on many points be left with the landlord.

It would be in fact desirable in many ways that the landlord should, under such a system, have considerable functions rather than that he should be bought out or pensioned off, as the enemies of Irish claims assert to be the plan. One can understand the functions of an ancient landlord, who ruled the people subject to the sacred right of rebellion on their part; and one can understand the functions of the capitalist who invests his money in preparing the land, and then lets

it out to cultivators. But the place in the designs of Providence of the landlord who, being relieved of the toils of government and risks of rebellion, does nothing and puts nothing into the soil, but only takes the rent, it is very hard to understand. It appears to result from a long experience that the Celts have not the same power of self-government which is so marked in the proper Indo-Germanic races. They do not organize themselves into peaceable communities like Indian villages or German communes—they quarrel among themselves, and require a ruler over them. This is very notable in the modern Irish. As soon as a son marries, the old people quarrel with the daughter-in-law, and there must be a separate house and establishment, instead of generations living together as in India and on the continent of Europe. This may be partly due to the want of proper subjection of women, but it is none the less the fact. Since then it is not proposed to confiscate the real rights of the landlords, or to do anything which will diminish the money value of their property, I would give them something to do. They would not only have ample power to improve (in the English sense of drainage, &c.,) and to raise their rents by improvements, but in any scheme I would give them duties to perform in relation to their tenants in return for the money they take.

One word more as to the common argument to the

effect that farms under lease are always badly cultivated, and that it follows that political economy does not apply to tenants; in fact that security is a bad thing for them. When you see wretched land you are told "Och, sure, that's a lase." Such is the form in which the story circulates. The answer to this is, that the supposed fact is no fact at all, but utterly untrue. The Irishman's remark about a *lase* may be true enough, but the *lase* to which he refers is not the cultivator's lease but the middleman's lease. Without any doubt these middlemen, having no permanent interest in the soil, and the potato being then a sure resource, covered the soil with wretched cottiers whom they rack-rented to the utmost. The cultivation of such tenants was very frequently wretched, not because they had leases, but because they had neither leases nor means. I defy any man to go about the country with honest eyes, without being satisfied that, generally speaking, the farms where there is security are more comfortable and better cultivated than those where there is none. There are exceptions to all rules, but the ordinary state of things is as I have described. I have heard it asserted in more countries than one, that a smart rent tends to make a man industrious (and there is probably some truth in that); but never, except in Ireland, that he is better without security of tenure.

I can suggest only two phases of the matter in

which insecure tenants may be supposed to do better than secure ones. First, when the paternal landlord, willing to pay for improvements, makes people improve against their will, the doctrine of Lord Fitzwilliam's school, may to some extent hold. He can force the tenant-at-will to make a good appearance, when he cannot exercise so complete an influence over the more independent secured tenant. And another view is this, that for building, &c., a lease of insufficient length is, under our law, the worst of all tenures. Take a thirty-one years' lease; at first it may seem to give some security, but for at least the last half of the term the effect must be to prevent either landlord or tenant from improving. If you see a row of ill-looking houses in London or elsewhere, you are told, "Oh, the lease has only ten or twelve years to run." And so it is with Irish farm leases, if there is no security for renewal.

It is often misleading to compare landlord's improvements with tenant's improvements. The landlord looks to appearance and his own idea of comfort. The tenant looks to profit. The landlord's first improvement is always the dwelling-house. The very small Irish farmer, like his fellow in rank the English labourer, cannot be brought to appreciate a good house sufficiently to pay for it; he will rather house in his own way the cow that pays the rent. Thus we must not judge rashly till we have compared the whole of

his establishment, dirty but abundant, with the other.

Still we always come back to this: that be the economic merits of the question, and of each view of the question, what they may—whether large farms or small farms be best; whether landlord's or tenant's improvements be best; whether tenant-right be good or bad, we have small farms and the Irish system of improvement in Ireland, and cannot summarily get rid of them. Landlords as a rule cannot, and will not, undertake what are called "improvements" on those small farms, and as the landlord does not, the tenant must. Tenant-right in a great part of Ireland exists, and wherever the tenant builds or improves, there must of necessity be a tenant-right in some shape. No one would prevent a landlord who wishes fairly to buy up the claims of the tenant and to take the building into his own hands, from doing so, provided he does not make the tenant pay for what he does not want; but as it does not pay the landlord to do this, and the tenant can do it much cheaper* and more to his own satisfaction, the tenant ordinarily does it and will do it. Parliament must therefore legislate for that state of things in which he does it.

* In the north, I am told that whenever a landlord seeks to do anything of the kind, the tenants beg of him to give them what assistance he will, but to let them build; they have many ways of doing it with infinitely greater economy.

As to the rules of political economy, I confess that since I conducted the inquiry in Orissa, where so many were starved according to the strictest rules of that science, I have not much liked the name of it.* When people talk of freedom of contract they forget the complete failure of that system as tried in 1860. In truth, they beg the whole question. Freedom of contract, as they put it, means absolute freedom for the landlord to do as he likes. If you wholly deny the claims of the tenant and stand on the letter of an unjust law, you may say that he must contract for what he can get; but the moment you admit, as all now do admit, that the tenant has put his labour and money in the soil, and has a right to recover what he has put there, the matter is taken out of the region of contract, and you must legislate on the basis of right. So far I think political economy is on the side of the tenant. Justice and law are not always the same thing. It is now agreed that you must alter an unjust law; that to some extent at least

* Orissa furnished one instance that even in mercantile matters the laws of political economy are not always efficient. Here is another connected with Ireland. Up to the time of the famine no one had thought of importing Indian meal as an article of food. The Corn Laws were adverse, but not prohibitory; other grains were imported; yet merchants never thought of Indian meal till the Government showed them the way. It is now discovered that it is immensely economical; enormous quantities are imported; almost all the pigs in Ireland are fed on it.

legislation in favour of the tenant is not confiscation, but confirmation of property. The only question is how far you are to go, and how you are to do what must be done.

Before coming again to consider what the legislation should be, I shall only quote (in confirmation of my view that legislation is as desirable in the interest of the landlord as in that of the tenant) the opinion of an Irish proprietor of much experience, who, although he is in politics a strong Conservative, and *will* have it that all evils are due to the "so-called Liberals," seems to be in this matter himself very liberal. He writes—"For my part, and I know I speak the opinion of a large majority, I heartily wish for a very liberal Tenant-right Bill. We cannot be placed in a worse position, or in a more unfair light. No Bill *can* be passed which in any degree recognises property, which can in reality, however it may in sentiment, really injure any one worthy of being entrusted with the rights of property, landed or other." In another letter he says—"Beyond all question some very decided legislation, and that on a liberal scale towards the farmers, is imperative. The present *absence* of law on this vital subject is a disgrace, and falsely keeps up the belief in England that Irish proprietors are a most rapacious lot. There are blots which are hit and made capital of, to suit the purposes of the would-be patriots. All should be bound

by law to treat their tenants as they are dealt with on fairly managed estates."

REVISED SUGGESTION OF A REMEDY.

I find that two principal objections are taken, by those to whom I have submitted it, to my former proposal to refer everything to a Commission which should have power to ascertain and give effect to the customs of the country, and to make bad landlords act as good landlords would act. First, it is thought that in many parts of the country the customs are too variable, uncertain, and undefined to admit of their being reduced to certainty in a semi-legal manner. Secondly, very competent authorities consider that it would be scarcely possible to get a Commission strong enough to command the confidence of both parties, and bold enough to do all that must be done of the nature of legislation in addition to the mere ascertainment of facts. I trust that I was never rash enough to suppose that at so early a stage of the discussion any definite proposal for a settlement could be put forth. I merely hinted, as it were, at the direction in which I thought it possible to proceed; and if my statement of the facts was as correct as could be expected under the circumstances, I am not discouraged because my proposals are imperfect and insufficient.

Now that we have so much discussion and such full statements of the views of so many competent persons, I hope that it is possible to go a good deal farther than before in the direction which a settlement must take—the concessions already made by those who speak in either interest being taken, as I have before said, as guides to steer by, marking the channel to be followed.

I make no doubt that wherever a definite custom exists, it must be ascertained and confirmed. The Ulster tenant-right must certainly be treated in this way, and the same course must be followed in any other parts of the country where similar customs prevail.

On the other hand, in every case in which the tenure is really of a purely contract character—where the land is let as in Britain, and the tenant puts nothing on the land which is not protected by his contract—the contract must be maintained.

For the rest—for the determination of all cases which are not regulated either by definite custom or by genuine contract—we may try to arrive at some of the general principles which must be kept in view by any authority which settles the matter. Regard will no doubt be had to the circumstances of the different localities in giving effect to those principles.

In trying to narrow the issue in accordance with the admissions or concessions of either party, I must

cast off those, on either side, whom I may call the *irreconcilables*. I do not think that the fixity of tenure party can be called irreconcilable, for it seems to me that none but their enemies assert that the fixity they claim is absolute and unqualified—that it must apply to all tenancies of every character, and admits of no qualification of the unlimited power of the tenant to do what he likes with the land. On the contrary, the advocates of fixity have already themselves suggested many important qualifications. On that side then I would only (so far as I have yet seen suggestions put forward) class as irreconcilable Fenians, and those opposed to British rule on any terms. On the other side I would put into the same class Irish landlords (if there still be any so extreme), and men of ultra-English ideas, who maintain as sacred the letter of landlord right under an existing unjust law, and think that the only remedy is to bring in English capital, and let the tenants contract for it; men who may still hold that there is to be no legal right to compensation for improvements already made by the tenants, nor for anything done without the consent of a landlord who cannot or will not do it himself.

To deal then only with reasonable men, who admit that a remedy for existing injustice, or want of legal right to justice, is required, we may say that the parties may be classed as those who approach the question from a fixity point of view, and those who

approach it from a compensation point of view. A main object of all that I have written has been to show, that when the question is fully turned over, there is not such a wide gulf between these two views after all. We shall see then how far by cutting and clipping on either side we can bring them together, and come to something like a basis of settlement.

Fixity has been described as an attempt to buy out the landlord, and compensation as a plan for buying out the tenant. I have tried to show that a duly qualified fixity by no means involves the deprivation either of legitimate landlord functions, or of the opportunity to improve, and reasonably to increase the rent; and that the right to compensation on liberal terms practically leads to the tenants' being left in possession unless they are willing to go; so that, in truth, I think we may assume that, as a rule, for a long time to come neither will buy out the other, but both will remain. In dealing with these two parties interested in the same land, the legislature must, I repeat, contemplate the state of things in which the tenant rather than the landlord has built and improved, so far as the minor improvements on small farms are concerned. That being so, the tenant must have some rights, and I hope we may avoid offending all susceptibilities by calling that right tenant-right, whether it take the shape of fixity, or of compensation, or of something between the two. The

question still remains, what that tenant-right shall be.

I make no doubt that every reasonable "Fixity" man will admit, what I have said, that whatever the rule be it must not be applied to contract tenancies where the tenant has put nothing permanent on the land. I may therefore take it, once for all, that all objections as to the unreasonableness of applying fixity to the farmer who came yesterday into a farm prepared by the landlord for his reception, and all other cases on a similar footing, may be put aside on the simple ground that it is not proposed to touch these cases. Even if it be in some degree difficult to prepare a definition which shall exactly distinguish them, I do not think that in practice it would be difficult for an equitable tribunal to decide in what category any particular holding is to be classed. Where the landlord has contributed a part of the expense, and the tenant has done the rest without special bargain, this cannot be considered a pure contract holding, and the tenant must be entitled to something for what he has done. I think that we shall find that a suggestion of Lord Lifford's, regarding the presumption in case of existing improvements (to which I shall come presently), will dispose of these cases.

In cases where the claim founded on tenant's improvements arises, the fixity claim may well be subject

to all the qualifications which I have already enumerated, and which bring it down to the Ulster tenant-right system—the right of the landlord to raise the rent reasonably—to prevent subdivision and sub-letting—to veto an objectionable purchaser of the holding—to exercise a right of pre-emption for himself or an adjoining tenant—and even in some cases to buy out a tenant without the consent of the latter. All the supporters of the tenant cause whom I have met, not only admit, but advocate a prohibition of the subdivision of small farms, and would disallow subletting, except with the permission of the landlord under special circumstances or to provide for the labourers necessary for the cultivation of the farm. Of all things they deprecate anything which might tend to create a new class of middlemen. I have given authority for believing, and do believe, that it would be quite easy to enforce prohibitions of this kind as conditions of a much prized tenure.

So much for the present of the qualifications to the fixity claim; but, as I have said, the great question is what the landlords will concede, and as compensation is the remedy which is put forward on their side, it will be better to follow the matter out from the compensation side and see where that brings us.

In truth it may be said that the farmers themselves, when one talks over the matter with them, do not quote ancient law, the history of the human race,

or the texts of the Brehon code to prove their co-proprietorship, but simply say that they have given a great part of its present value to the land, and that all that they have invested on it is their property. In a great degree therefore, both parties start from the same point. But then it is when we come to consider the mode in which compensation is to be calculated that we find a very wide difference. Compensation may mean anything, from full or almost full compensation to the tenant, down to a mere mockery and delusion.

I assume at once that retrospective compensation—that is, compensation for improvements already made—must be given. I have not met any reasonable person on the landlord side who hesitates to acknowledge so much. It is the very essence of the whole claim. It would be intelligible enough, though I think most unsatisfactory, to give warning that for the future a special bargain must be made; but for the past some mode of satisfaction is inevitable. We may relegate to the domain of the irreconcilables all who would deny that. In so far then the consent of the landlord does not come in question, and we may perhaps leave the rest till we find a means of solving so much. We may then see whether our solution will suffice for the future also.

The grand question is whether, in the event of eviction, we are to compensate the tenant for what he

loses, or only for what the landlord gains; and that makes all the difference in the world. It has been lately said by a noble landlord that the claim to compensation is like that of a man who borrows your horse, cuts off his mane and tail, and then claims a co-proprietorship on the strength of his improvements. The tenant might retort that only the dam was lent to him; that he has bred the foal, fed it, and reared it into a horse; that it is a very useful animal in his cart, to which he has adapted it, although unsuitable for the lord's carriage; and that if it is taken from him he should be compensated for his labour and expense in rearing a cart-horse, not sent away with a rebuke for having failed to make it a carriage-horse.

I believe that if we were to take the matter strictly from the landlord's point of view—if we were to say You shall have compensation for all that you can show that you have added to the landlord's property, so far as the addition is now really valuable to him, and no more—a very large proportion of the tenants' claims would break down, or be reduced to very small compass, and they would think they were deluded and sent away without justice. It is like the case of our fleet. Our wooden ships have cost us a great deal; but if any one were to expropriate us, and to take our navy at a valuation, we should get very little for them. The fashion of agriculture has changed, and things useful and valuable in their day are to land-

lords valuable no longer. To take a nearer illustration, we may suppose that a man has spent 20,000*l.* on a country house according to his own taste and fancy; and lives in it with his family; it would not do for the railway company to say, "You were a fool to build it—it is a bad house in every way, and is in defiance of the new-fashioned laws of sanitary science—we should only pull it down—we will give you no more than 2000*l.*" Still less would the argument hold if the owner could say, as the Irish tenant can—"Bad as the house may be according to your ideas, here are other country gentlemen as foolish as myself, who have offered me large sums for it." The Irish tenant claims either the price which his farm will fetch in the market; or the value of the labour and materials which he has sunk in the improvements; or the addition to the letting value, plus a compensation for the inconvenience and injury of expropriation; he claims something for his occupation-right, in fact. In any case his estimate is widely different from that of the landlord, and it is insisted on with as thorough a conviction of its justice, even if, speaking economically, it cannot be so well maintained.

I seem to see the first light towards a settlement of the compensation question in the letters of Lord Lifford. He is in some sense the champion of the compensation view of the matter, and if he may be taken as the representative of reasonable landlords in

the spirit which he evinces and the concessions which he is ready to make, we have made a long step in advance. I understand his view to be, that on the principle of give and take, something must be conceded in order to obtain peace and quiet, and the settlement of so painful a social question; and that in this view he would, in calculating compensation, give the tenants something more than strict economic justice—in fact would treat them liberally, and give them as much as they can reasonably claim from their point of view.

To begin with, Lord Lifford proposes what is, I think, looking to Irish facts, just, viz., that the difficulty of distinguishing between landlord's and tenant's improvements should be got over, by presuming that all improvements have been made by the tenant unless it is proved to the contrary. In the great majority of cases the buildings, &c. called improvements, were really put up by the tenant, or by those from whom he derives; and the landlord's improvements being as a rule recent in date and substantial in character, can be much more easily proved. Where the landlord has contributed to what the tenant has done, he has almost always done so in money which his accounts will show—whereas the tenant can show no account of his labour. Thus it will be for the landlord to show that the tenure is one to which the claims founded on tenant's improvements cannot apply, the landlord himself having made all the improvements.

Then, as to exhaustion. Where there is no special contract on the subject, I think that this plea on the part of the landlord must be put aside altogether. I do not mean that we are to allow nothing for wear-and-tear—that an old house is to be taken at the same value as when it was new—but I mean that if an old house has still a certain value, the landlord is not to be allowed to say, "he has lived in it so long that the use has repaid him the cost." He must give whatever is the present value of the house.

Lastly, I decidedly think that in one shape or other something must be done in the direction of compensating the tenant for what he loses, rather than for what the landlord gains. If our object is peace it will never do to let a landlord evict a number of tenants and say, "I gain nothing by your cabins and cow-houses, your tillage and your fences—it will pay me as well to dispense with all these things, and turn the whole thing into a sheep-farm." Especially if the tenants can show that other farmers are willing to pay as high a rent as the sheep-farmer (as it has been asserted), and to give a good price for the tenant's improvements besides, it is quite impossible that the landlord can be permitted to turn them out without paying them at least as much as they could get from others. Practically, the landlord cannot do so now, and you could not settle anything by a rule less favourable than the present practice.

Take the matter in another way. If the tenant's claim to compensation be once admitted, it will not always be convenient to all landlords to buy out the tenants—indeed, if I have appreciated the facts with any degree of correctness, few prudent landlords will do anything of the sort. Well then, it follows of necessity (especially if sub-letting be forbidden), that when a tenant wishes to dispose of his interest, or when he breaks down, or emigrates, or dies leaving no heir fit to carry on the cultivation, you must allow the sale to some one else of the property which you have recognised. Tenant-right, then, inevitably becomes an acknowledged marketable property — it acquires a market value—and you cannot with justice take the property without paying a price equal to that market value.

Put the matter then as you will, it always comes to this, that both economically and socially the real value of the tenant's improvements is the price which a new tenant will pay for the privilege of succeeding to them. The only question would be whether, in the interest of the tenant, there might not be, in case of forcible expropriation, a fair right to claim the option of a valuation on Lord Lifford's principles of all outlay made, if that would be a more favourable standard than the price obtainable by a forced sale. Once you admit a co-proprietorship in the land as it stands with the improvements upon it (and a property

in the improvements which cannot be carried away *is* a co-proprietorship), the co-proprietor expropriating the other should pay him the fullest value. My impression is that the question of compensation might be settled, and that this settlement must in the main take the shape of market value—the price which could be got for the privilege of occupying the farm, subject to a fair rent calculated without reference to the improvements.

A more difficult question remains behind. It is evident that, if there is to be substantial compensation in any shape as matter of right, you cannot allow the landlord to raise the rent as he chooses. There is no getting over that; otherwise the landlord could of course avoid the occurrence of any claim to compensation by demanding an extravagant rent. The only possible suggestion would be, that whenever the landlord raises the rent the tenant should have the right to decline and claim compensation, as in case of expropriation. In this case there could be no market value for comparison; the landlord's right to raise the rent without limit would put an end to that. And if the tenant were only entitled to the actual value of the improvement *to the landlord*, the result would be that instead of getting anything for the greater value to himself, for his home and his household gods, and the inconveniences of being turned out, all that value to him would be in practice DEDUCTED from the compensation, and would

in most cases nullify it altogether. I beg particular attention to this point. It is one which not only occurs, but has been so common as to have become proverbial in India. Under native Governments it has been constantly the case that the resident settled ryots—the men who have given pledges in their hearths, and homes, and affections—are made to pay higher rates than strangers, whom it is necessary to tempt by easy terms. It is there not so much the improvements that bind a man, in times when there are few improvements, and in a country where (there being no law of fixtures) a ryot carries off his house on his back, but that the man who clings to ancestral fields will pay up to a certain point rather than go, and hopes for better times.

So in Ireland a man would pay a high rent rather than submit to actual ejection, and it would not be till, by increase of rent, the landlord had turned into money all the tenant's affections, that he would have to pay anything whatever by way of compensation on actual ejectment. You would have, too, an aggravation of the present contentions and evils caused by notices to quit. Landlords would be constantly giving notices of enhancement of rent, and so seeking to cut down claims to compensation. Tenants would constantly resist every enhancement, reasonable and unreasonable, and would declare that they would rather force the landlords to submit by

claiming compensation. The calculation of compensation in such a way as to satisfy both parties would be, under these circumstances (as I have before tried to show, see page 69), an almost impossible thing. I fear that a vast amount of litigation and bad blood would result.

It seems then to me that if you give the tenant a right to compensation for improvements, the only course is also to give him some remedy against an increase of rent which would absorb his improvements.

If we have got so far that the tenant is to have a right to compensation for his improvements, and the landlord is to be restricted from unjustly enhancing the rent to a point which will absorb the improvements, there remains only the question whether the landlord is to have the power to buy out the tenant, paying him compensation, in every case at his discretion. I think that if a really liberal system of compensation were arranged, the check on the exercise of the power of eviction would be in most cases so considerable that a farther restraint might perhaps not be indispensably essential. But still a single spiteful eviction causes so much feeling in the country that, if we are to interfere at all with the free action of landlords (and I have said that I think we must do so as regards the rent), I believe it would be much better to extend the interference to the cases in which a landlord (at the expense of compensation for petty im-

provements, which would cost him comparatively little) might practically inflict a very severe punishment upon an obnoxious tenant by turning him out of house and home. Such cases are now rare, and would be rarer, so that little labour and little interference would be involved, while the gain to the peace and good feeling of the country would be enormous. I would make the rule, what I understand it now to be in the north, that the landlord may expropriate for fair value for any reasonable purpose—*e. g.*, when he wants the land about his own residence for his own cultivation; when he has bought by voluntary agreement land to make a large farm and one man stops the way; or even when a tenant gives such reasonable cause for offence of any kind that it cannot be expected that he and a fair-tempered landlord will make it up and live amicably together.

It has been suggested that as the large farms let on contract principles would be excluded from the operation of tenant-right rules, so also the very small farms, which according to English ideas cannot be profitably cultivated, should also be excluded, in the hope that their occupiers may be driven to their proper sphere as labourers. I have talked over and thought over this point much. The difficulty is, that the small farmers are the very men who have the strongest claims on the ground of improvement, and the claims which it is most difficult to

satisfy by mere compensation calculated from the landlords' point of view. It is they who have created their little farms from the bog and hillside. And it is astonishing on how small a farm a steady industrious man, frugal as an Irishman can be frugal, can live healthily and happily, bring up a thriving family, send them to school and pay for their schooling. So long as he can pay his way and does not come on the poor-rates, it would seem cruel and impolitic to turn such a man out of the cabin which he values as his castle. If he breaks down, fails to pay his rent, or comes for poor relief, he may certainly with justice be required to give up the holding, but not otherwise.

Again, it is quite a question whether in these days of scarce labour it is either just or desirable to deprive the mere labourer of the cabin which he has built, and the half acre of potato ground which he has cut out of the bog. In most cases, instead of providing for him a model cottage (for which he will not care to pay) and neat garden, you will only send him to America, or make him a squalid loafer in some town.

On the whole then, I am inclined to think that it will be better to draw no line in regard to size of holdings in any remedial measures granted to the tenants. It will be better that the fact that a man is doing no good with his farm—that he is grossly miscultivating it, and failing to support himself and educate his children—should be considered a sufficient

ground to justify the landlord in buying him out. That would, I think, cover everything.

If I have argued out the matter correctly we have then, from the compensation point of view, arrived as nearly as possible at the same point which we had before reached from the fixity point of view by duly qualifying the claim to fixity. I would put the settlement at that mid-point, where the two views are thus made to meet—and that point is neither more nor less than the indigenous tenant-right of Ulster which has been so fully described. It must only be systematized and legalized by due provision for valuing the rent when necessary, and otherwise protecting the tenant by law.

I confess, however, that my belief still is that the chief difficulty is to come. My misgiving is whether customary rules and equitable principles can be reduced to law without bringing about some evil of another kind—whether the northern tenant-right system, reduced to a rigid code to be administered by law and lawyers, would work as smoothly as it now does under a good landlord. I do not think that it would. Still the time has come when the present lawless state of things cannot last much longer in the districts where custom is most efficient; and that state of things is already intolerable in other districts. We must accept the situation, and do the best we can.

After being convinced that my original plan would

not suffice, and trying several sketches of laws, I come back very nearly to my first idea. I think that, having laid down certain general principles, you must have a Commission to give effect to them. This Commission must have very large powers to do summary and cheap justice between landlords and tenants in accordance with those principles. It must be authorized to settle disputed questions by arbitration and conciliation, or anything by which you may keep the lawyers at arm's length.

We already have an admirable survey and valuation of Ireland, which is very reliable as a standard of comparative reference. But the valuation is not the true letting value. It is considerably under the present actual value. I would not attempt an actual valuation of rents for all Ireland, and would not interfere except when absolutely necessary. It would be the greatest possible object to let good landlords alone, and only to interfere with bad ones. I would not then give any appeal against a landlord's valuation for rent on the mere ground that it fell too heavy on a particular farm, but only on the ground that it was made on wrong principles. The valuation made in good faith and in a reasonable manner by a good landlord, would not be liable to be impugned on the ground of error of judgment only. But I would apply to Irish landlords (I should like to apply it to city financiers also) the principle of the Habitual

Criminals' Bill. When a landlord is proved to have repeatedly acted with injustice, I would mark him as a "*suspect*," and to some extent incapacitate him. He would be treated to some degree as a lunatic or a monomaniac, and would not be allowed to enhance rents or evict tenants without the sanction of the public authority.

In this way I should hope that landlords would be very effectually deterred from running the risk of coming under the ban of the Commission; that the actual interference of the public authority would be very rare indeed; that we should indirectly obtain the object of making bad landlords act as good landlords; and that peace and security would be obtained without depriving the many good landlords of the functions which they worthily fulfil.

The latest detailed suggestion on the land question, and one which has been received with much favour, is that of Mr. Fitzgibbon. After very vividly setting forth the claims of the tenants, and showing, as one in his position can with much authority show, that their demand is not confiscation but justice, he proposes a scheme by which they should be entitled to give notice to a public office of their intention to improve, and, the improvements being found reasonable, should carry them out, and then should be entitled in consequence of such improvements to leases for terms proportioned to the amount of the improve-

ment. In fact, a man who always goes on improving, may so keep ahead of the expiration of his leases that he can never be turned out.

This plan seems only to apply to future improvements, and I do not see what term is to be given to enable tenants to undertake improvements. But I gather that the mere fact of giving notice of intention to improve is to protect a man from ejectment for the present. I fear that there would be too great a disposition, in every case in which the tenants distrusted their landlord, to give such notices whether or not they had the means to carry them into effect; that there would be as it were an unnatural stimulus to too sudden improvement, or to that which might pass for improvement; and that altogether the system would be too complicated. It would, as I have said of other propositions, be ineffectual if it does not provide for improvements already made. I venture to propose a modification of this plan, which might, I think, work. Putting aside, as before, all contract tenures where the existing improvements have not been made by the tenants, I would say: In all cases in which the tenant has been suffered to build and improve, give him a lease for thirty-one years and his life, at a fair rent, as a compensation for all *past* improvements, except in the comparatively few cases in which the existing improvements are so extensive as to entitle him to a longer term on Mr. Fitzgibbon's

scale. I would then say, with Mr. Fitzgibbon, that for all improvements made during the term of the first lease he should be entitled to renewal for terms in proportion, on the scale proposed. This would give him plenty of time to improve leisurely and durably, and a man who does not improve in thirty-one years might be considered to have lost all claim to consideration. This, however, must be borne in mind, that, as I have before put it, if the tenant is to have a substantial interest, you cannot allow the landlord to fix the rent altogether at his pleasure. In whatever shape you compel the landlords to give leases, it naturally follows that they will not be willing to let their lands pass from them for a long term without a revaluation. A very general enhancement of rents would probably occur in inaugurating the new state of things; and if the tenants were in this respect left to the mercy of their landlords, they would think it anything but a boon. I make no doubt then, that if a general system of compulsory leases were carried out, you must have a process exactly analogous to an Indian settlement. You must have a public rent-valuation of all the lands; their present state and present tenure must be recorded; those tenants who have a claim to fixity for the time must be distinguished from contract tenants, and recorded one by one. All this must be done for the whole country without delay. The interference exercised will be in the first instance much more complete and sudden than under the other plan,

which would leave it to a Commission to take up cases as they arise. The good landlords would be much more divested of discretionary powers and of their present functions.

I am always averse to a plan which might throw difficult questions on posterity, and I should, on the whole, prefer one which would involve less immediate change, less minute interference, and less derogation from the position of the present generation of landlords; but if the idea of leases (even when given under compulsion), is more agreeable to those who wield power by their votes in Parliament than anything that savours of indefinite fixity, I think that the plan may very well be carried out. Indent on the India Office for a few good settlement officers—they are to be had in great abundance at present, as so many India settlements are approaching completion,—and the thing is done.

Either of the schemes above proposed would provide for the future as well as the past. Those tenants who are entitled to certain rights in virtue of improvements already made, being for the present practically protected from eviction, would have the opportunity of farther improving on the same terms. But I would not apply any such rules, in the future any more than in the present, to contract tenures where the landlord has made, and continues to make the necessary improvements. I would leave the matter to contract

entirely, both where such farms now exist and where they are hereafter created by the buying up of tenant-rights. · Where a British system is once established, let it be fairly carried out. I would not seek to reintroduce the Irish system, unless the landlord, by standing by and allowing the tenant to build and improve, again puts him on the old footing.

These then, are the plans which occur to me. I have more than once admitted that justice might, I believe, in the main be done by a liberal compensation for improvements, if any scheme could be devised for estimating the improvements in such a way as to satisfy both parties, and for securing the compensation without interference with the landlord's discretion in regard to rent. If such a scheme can be devised it may be tried, but I do not see how it can be devised. And I believe that it would be more prudent to avail ourselves of that healthy and well understood indigenous institution, the Irish tenant-right, rather than try the experiment of a system which *must* be an experiment, with this against it, that all previous experiments in the same direction have signally failed.

It has already been said by some who have spoken on the subject, that the landlords must not be deprived of their rights *without compensation*. I earnestly trust that there will be no repetition of the English method of promoting reforms, by compensating abuse-holders

out of the pocket of the innocent tax-payer in a way which amounts to bribing them to consent to reform. In the present case there can be no pretext for anything of the kind, for nothing can be more clear than this, that any of the arrangements which have been proposed—even the pure and simple Sixty of the Cork farmers—will increase, not diminish the value of Irish properties, if, in any degree, peace is obtained for Ireland.

October 15*th*, 1869.

THE END.

LONDON:
SAVILL, EDWARDS AND CO., PRINTERS, CHANDOS STREET,
COVENT GARDEN.

00098398

Digitized with financial assistance from the
Government of Maharashtra
on 18 July, 2018